

立法會
Legislative Council

Ref : CB2/PL/CA

LC Paper No. CB(2)1367/06-07
(These minutes have been seen
by the Administration)

Panel on Constitutional Affairs

Minutes of meeting
held on Tuesday, 23 January 2007, at 8:30 am
in the Chamber of the Legislative Council Building

Members present :

Dr Hon LUI Ming-wah, SBS, JP (Chairman)
Hon TAM Yiu-chung, GBS, JP (Deputy Chairman)
Hon James TIEN Pei-chun, GBS, JP
Hon Albert HO Chun-yan
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon Margaret NG
Hon CHEUNG Man-kwong
Hon CHAN Yuen-han, JP
Hon Bernard CHAN, GBS, JP
Hon LEUNG Yiu-chung
Hon WONG Yung-kan, JP
Hon Howard YOUNG, SBS, JP
Dr Hon YEUNG Sum
Hon LAU Kong-wah, JP
Hon Emily LAU Wai-hing, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon Abraham SHEK Lai-him, JP
Hon LI Fung-ying, BBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon WONG Kwok-hing, MH
Hon LEE Wing-tat
Hon Daniel LAM Wai-keung, SBS, JP
Hon MA Lik, GBS, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Dr Hon KWOK Ka-ki
Hon CHEUNG Hok-ming, SBS, JP
Hon WONG Ting-kwong, BBS
Hon Ronny TONG Ka-wah, SC
Hon CHIM Pui-chung
Prof Hon Patrick LAU Sau-shing, SBS, JP

**Members
absent** : Hon LEE Cheuk-yan
Hon Martin LEE Chu-ming, SC, JP
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Dr Hon Philip WONG Yu-hong, GBS
Hon Jasper TSANG Yok-sing, GBS, JP
Hon LAU Wong-fat, GBM, GBS, JP
Hon CHOY So-yuk, JP
Hon KWONG Chi-kin

**Public Officers
attending** : Item III

The Administration

Mr Stephen LAM Sui-lung
Secretary for Constitutional Affairs

Mrs Cherry TSE LING Kit-ching
Permanent Secretary for Constitutional Affairs

Mr Arthur HO Kin-wah
Deputy Secretary for Constitutional Affairs

Mr Gary POON Wai-wing
Principal Assistant Secretary for Constitutional Affairs

Mr LAM Man-ho
Chief Electoral Officer

Item IV

The Administration

Mr Stephen LAM Sui-lung
Secretary for Constitutional Affairs

Mrs Cherry TSE LING Kit-ching
Permanent Secretary for Constitutional Affairs

Mr Arthur HO Kin-wah
Deputy Secretary for Constitutional Affairs

Ms Joyce HO Kwok-shan
Principal Assistant Secretary for Constitutional Affairs

Clerk in attendance : Mrs Percy MA
Chief Council Secretary (2)3

Staff in attendance : Mr Arthur CHEUNG
Senior Assistant Legal Adviser 2

Mrs Eleanor CHOW
Senior Council Secretary (2)4

Mrs Fanny TSANG
Legislative Assistant (2)3

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I. Confirmation of minutes of meeting

(LC Paper No. CB(2)813/06-07 - Minutes of meeting on 20 November 2006)

The minutes of the meeting held on 20 November 2006 were confirmed.

II. Items for discussion at the next meeting

(LC Paper No. CB(2)898/06-07(01) - List of outstanding items for discussion

LC Paper No. CB(2)898/06-07(02) - Information note provided by the Administration on "Offices set up in the Hong Kong Special Administrative Region by the Central People's Government under Article 22 of the Basic Law"

LC Paper No. CB(2)922/06-07(01) - Letter dated 19 January 2007 from the Democratic Party concerning prevention of conflict of interests of Principal Officials

LC Paper No. CB(2)922/06-07(02) - Question raised by Hon Albert HO Chun-yan at the Council meeting on 17 January 2007 concerning prevention of conflict of interests of Principal Officials and the Administration's reply)

2. Members agreed that the following items would be discussed at the next meeting on 8 February 2007 -

(a) Election expense limit for 2007 District council elections

The item was proposed by the Secretary for Constitutional Affairs (SCA); and

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- (b) Prevention of conflict of interest under the Code for Principal Officials under the Accountability System
-

Dr YEUNG Sum said that the Democratic Party (DP) was concerned about the recent incident that a principal official had jointly bought a race horse with someone from the business sector. The DP had written a letter to the Chairman requesting the Panel to discuss the issue of prevention of conflict of interest under the Code for Principal Officials under the Accountability System. He suggested and members agreed that the issue be discussed at the next meeting.

III. Practical arrangements for the election of the third term Chief Executive
(LC Paper No. CB(2)898/06-07(03) - Paper provided by the Administration on "Practical arrangements for the election of the third term Chief Executive")

Briefing by the Administration

3. SCA informed members that the election for the third term Chief Executive (CE) would be held on 25 March 2007.
4. Chief Electoral Officer (CEO) introduced the paper which set out the key electoral arrangements for the CE election.

Vacancy in the Election Committee (EC)

5. Mr Howard YOUNG noted that the interim register of the EC members had been compiled and published for public inspection. He asked whether a subsector by-election would be held to fill a vacancy that arose as a result of the disqualification of an EC member, or whether an unelected candidate with the highest number of votes in the relevant subsector would fill the vacancy in the EC.
6. SCA responded that the EC subsector elections were held in December 2006 and the EC had a total of 796 members. In relation to the 2007 CE election, no by-election would be held in respect of any vacancy left by an EC member who was, say, disqualified after elected. There was also no arrangement for an unelected candidate with the highest number of votes in the relevant sub-sector to fill such a vacancy.

Nomination of candidates

7. Mr TAM Yiu-chung sought clarification on whether members-elect of the EC could nominate a candidate for the CE election before the commencement of the EC term. He also asked about the nomination period for the CE election.

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8. SCA responded that the final register of the EC members would be published on 1 February 2007, and the term of the EC would commence on the same date. According to the law, the nomination period should not be less than 14 days and should terminate on a day earlier than 21 days before the polling date. The nomination period for the CE election would be from 14 February 2007 to 1 March 2007. The Returning Officer would receive nomination form only during the nomination period and, by then, the term of the EC would have already commenced.

9. Mr Ronny TONG considered it unsatisfactory for the nomination period to fall within the Chinese New Year holiday. He asked whether it was the intention or negligence on the part of the Administration that such an arrangement was made.

10. SCA said that the nomination period and polling date were set in accordance with the electoral law. The Registration and Electoral Office (REO) had already advanced the commencement date of the nomination period, having regard to the Chinese New Year holiday, so that the nomination period would be slightly longer than the minimum 14 days required by law.

Venue for polling and counting station

11. Many members, including Mr TAM Yiu-chung, Mr Ronny TONG, Mr Wong Ting-kwong, Mr Patrick LAU and Mr LEUNG Kwok-hung, expressed concern that polling would take place at the Asia World Expo (AWE) near the Hong Kong International Airport at Chek Lap Kok which was very far away from city centre. They asked about the transportation arrangements on the polling day, i.e. availability of shuttle bus from the city to the AWE, carpark at the AWE, and allowance for transportation expenses, etc.

12. Ms Audrey EU asked when the REO had started to make booking for the venue. Mr Ronny TONG queried whether the failure to reserve a venue in the Hong Kong Convention and Exhibition Centre (HKCEC) on 25 March 2007 was intentional or due to the negligence on the part of the Administration. Mr LEUNG Kwok-hung suspected that one of the reasons for choosing the AWE was to discourage organisations from staging protests on the polling day.

13. SCA said that the REO had begun to look for a venue for the polling and counting station for the CE election in mid-2005, i.e. shortly after the 2005 CE election. Given that the HKCEC had many regular clients, the venue had already been reserved during the period around 25 March 2007 some time ago. SCA added that in looking for a suitable venue, the REO had to make sure that there was sufficient space to accommodate the EC members, the media and the public observing the counting process. In terms of accessibility, the AWE could be reached by car or public transport. The carpark in the AWE could accommodate over 1 000 cars. Shuttle buses would run between the carpark and the entrance of the AWE leading to the polling station on the polling day. As in other elections, electors and members of the public had to pay their own transportation expenses.

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14. CEO supplemented that the REO had to look for a venue that could accommodate a large number of people and that could facilitate media coverage. Over 10 000 ft² had been reserved in the AWE for the public to observe the counting process. Arrangements had also been made with the Radio Television Hong Kong to provide a web cast service for the vote counting process. CEO added that transportation to the airport was quite convenient as travelling by the MTR Airport Express from Central to the AWE took about half an hour. The AWE Station was next to the Airport Station. In addition, the AWE was also accessible by public buses. In the light of the availability of various means of public transportation for electors and members of the public to travel to the AWE, the REO had no intention to arrange shuttle buses between city centre and the AWE.

15. In response to Mr LEE Wing-tat, CEO undertook to provide information on the action taken by the REO in securing a suitable venue for use as the polling and counting station for the CE election.

(Post-meeting note : The Administration's response was issued to members vide LC Paper No. CB(2) 1057/06-07(01) on 7 February 2007.)

16. Ms Emily LAU and Mr LEUNG Kwok-hung asked whether a demonstration area would be provided at the polling venue. SCA and CEO explained that any organisation which wished to demonstrate on the polling day was required by law to notify the Police. The REO was working with the Police and the Transport Department to identify a suitable location for the purpose.

Polling arrangements

17. In response to Mr Howard YOUNG, SCA said that in a contested election where there was more than one validly nominated candidate, more than one round of voting might need to be held on the polling date if none of the candidates obtained an absolute majority of valid votes in the first round of voting. The first three rounds of voting would be held at 9:00-10:00 am, 2:00-3:00 pm and 7:00-8:00 pm respectively. In the event that there was a need for the fourth or further rounds, it would be held on the following day. CEO said that the booking period of the venue used as the polling and counting station had taken such possibility into account.

18. Ms LI Fung-ying asked about the maximum rounds of voting that might take place in the CE election. SCA explained that, according to law, election proceedings should continue until a CE was elected.

19. Ms Emily LAU recalled that the adoption of several rounds of voting in the 1985 LegCo election had caused chaos on the polling day and exposed the shortcoming of the electoral procedures. SCA responded that since the first election to return Members of the functional constituencies in 1985, a lot of improvements had been made to the electoral procedures. He was confident that the electoral procedures were comprehensive enough to deal with the different situations in an election.

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20. Mr Howard YOUNG asked whether polling could start before 9:00 am, given that some EC members might be unfamiliar with the AWE and arrive early on the polling day.

21. CEO said that a resting area would be provided near the polling station to allow EC members who arrived early to wait for the opening of the polling station. In addition, there was a cafe in the AWE which provided hundreds of seats.

22. Ms Audrey EU expressed concern about the short time allowed for the first round of voting. In response, SCA said that he believed the Electoral Affairs Commission (EAC) would take note of similar comments in the past week and consider whether to extend the time for the first round of voting by half an hour to one hour.

23. CEO supplemented that the REO envisaged that the voting process for each elector would not take long, because there were 20 desks for issuing ballot papers and 40 voting compartments. As long as an EC member could arrive at the polling station before the end of the polling hours, he would be allowed to enter the polling station to vote. He noted members' concern and would reflect it to the EAC.

(Post-meeting note : The EAC has decided to extend the time for the first round of voting in the case of a contested election, and the polling hours in the case of an uncontested election, from one to two hours, i.e. from 9:00-10:00 am to 9:00-11:00 am. The relevant press release was issued to members vide LC Paper No. CB(2)1015/06-07(01) on 2 February 2007.)

24. Mr Howard YOUNG noted that an elector was required to mark the ballot paper with the "✓" chop provided to indicate his support for a candidate. He asked whether a "x" chop would be provided for an elector to cast a "not support" vote in an uncontested election, so as to distinguish these votes from unmarked ballot papers.

25. SCA explained that the "✓" chop would be provided to electors inside the voting compartment. In a contested election, an elector could tick the circle opposite the name of the candidate of his choice on the ballot paper. In an uncontested election, an elector could choose to tick either the circle opposite the word "support" or the circle opposite the words "not support" on the ballot paper. Unmarked ballot papers would be invalid.

26. Ms LI Fung-ying expressed concern about smearing of ballot paper by wet ink after the use of a chop. CEO assured members that polling officers would ensure that the chop was fit for usage and the ink would not be so wet as to smear the ballot paper.

27. Mr WONG Ting-kwong asked about the manpower involved on the polling day. CEO responded that the scale of the CE election was relatively small as

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compared with other elections. All the civil servants in the REO, which amounted to some 130 would work on the polling day. Additional temporary staff would be engaged, if necessary.

Election forums

28. Mr LEE Wing-tat expressed disappointment that the Administration did not intend to host any election forum for the CE election. He pointed out that the same had been arranged for the District Council (DC) elections in 2003 and requested the Administration to reconsider its position. Noting that the incumbent CE, the Honourable Donald TSANG Yam-kuen who intended to run for re-election, had expressed the view that he would only take part in two open election forums, Mr LEE said that there should not be any limit on the number of election forums which he would attend in order to enable electors and the public to be apprised of his platform.

29. SCA said that unlike other elections, it was possible in a CE election that the incumbent CE might run for re-election. It was, therefore, inappropriate for the Administration to host any election forum, as some people might query the independence and impartiality of such a forum.

30. Mr CHEUNG Man-kwong said that the CE election was a small circle election which deprived the right of electors to vote. Under the circumstances, the Administration had the responsibility to organise forums to provide opportunities for members of the public to pose questions directly to the candidates and to be apprised of their platforms. If conflict of interest was an issue of concern, the Administration could entrust an independent body to organise such forums to facilitate public participation.

31. SCA said that in view of the importance of the CE election, he anticipated that organisations such as professional or trade organisations, academic institutions, media, etc, would organise election forums. He anticipated that there would be opportunities for the candidates to address the public through the media. The Administration remained of the view that it should not be involved in the matter. The relevant Government departments, however, would render assistance to the organisations concerned in respect of booking of venues for forums. He would reflect members' views on the matter through REO to the EAC.

Electioneering activities conducted by the incumbent CE

32. Mr LEE Wing-tat said that the CE had made a high-profile visit in his official car to his newly opened campaign office during office hours on 22 January 2007. The CE had said that he was CE 24 hours a day and there was no distinction between his working hours or leisure time. Mr LEE criticised that the CE was taking an unfair advantage in using public resources to campaign for re-election. He pointed out that the CE had two identities during the election period, namely the incumbent

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CE and CE candidate. If the CE wanted to visit a district, all district officers and relevant Government departments such as the Home Affairs Department and the Information Services Department would be involved in making arrangements for the visit. The use of such public resources was intended for a CE, but not for a CE candidate. Although the media had been advised to follow the principles of "equal time" and "no unfair advantage" in dealing with all candidates, the incumbent CE, however, would have greater media exposure than other CE candidates. Mr LEE queried whether the election would be fair and just in the circumstances. To avoid conflict of interest, he suggested that the CE should follow the practice of the CE of the Macau Special Administrative Region, who had taken leave before running for the second term.

33. Dr YEUNG Sum said that the Honourable Donald TSANG Yam-kuen was making full use of his advantages as the CE to campaign for re-election. Although the CE had still not announced his candidacy, he had started his electioneering activities to maximize his exposure in the media. While the electoral rules prohibited candidates from using public resources for election campaigns, the CE was exploiting the grey area in the existing electoral law. This approach was totally unacceptable. He suggested that the CE should take leave and delegate his duties to the Chief Secretary for Administration after declaring candidacy.

34. Mr TAM Yiu-chung sought clarification on how the CE's official duties and electioneering activities as a candidate could be differentiated after he made an announcement to run for the office of the next term CE.

35. SCA said that as a CE election candidate, CE had to follow the electoral guidelines issued by the EAC. These guidelines included, among others, that CE candidates could not use public resources for election campaigns, except for certain types of services which he was entitled to use for his private purposes by virtue of his post or job. The same arrangement was also adopted in the 2005 CE election. SCA added that during the election period, arrangements for the CE to attend functions in his capacity as a CE election candidate such as meeting different sectors of the community and visiting different districts in order to canvass support would be handled by his campaign office.

36. SCA further said that in accordance with the Basic Law, the incumbent CE might seek re-election once, and there was no requirement for him to take leave. The practice was in line with that of the United Kingdom (UK) and the United States (US). The former CE, Mr TUNG Chee-hwa, had continued to carry out his official duties while campaigning for re-election. Similarly, LegCo Members were not required to resign or take leave before seeking re-election. Regarding the suggestion that the CE should take leave after declaring candidacy, SCA said that the CE had to discharge his duties under the Basic Law and, even if he was out of town and the CE duties were assumed by other senior officials, the CE would still be consulted on important matters.

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37. Ms Emily LAU said that the electioneering activities of Mr TUNG Chee-hwa had not caused public concern, because they were not carried out in a high-profile manner. The CE election would no longer be fair and open if the incumbent CE was allowed to abuse his power. It would be a dereliction of duty if the enforcement authorities, i.e. the EAC and the Independent Commission Against Corruption (ICAC), failed to guard against any abuse of use of public resources for election purposes.

38. SCA responded that the elections carried out in Hong Kong had been known for being open, fair and clean. Both the EAC and ICAC had been enforcing the law in a strict manner. This would continue to be the case for future elections.

39. Ms LI Fung-ying said that the CE had begun his electioneering activities before declaring candidacy. This was unfair to contenders who had formally announced candidacy before commencing electioneering activities. She asked whether expenses incurred by the CE for such activities would be counted as election expenses.

40. Ms Audrey EU concurred with Ms LI. She pointed out that in the LegCo elections, a car borrowed from a friend for use in electioneering activities would be treated as a donation in kind. In calculating the amount of financial assistance payable to a candidate, any election expense incurred by a candidate had to be net of any election donation received by the candidate. However, in the case of the incumbent CE who sought re-election, he was entitled to use his official car which was not treated as a donation in kind. In addition, given that Honourable Donald TSANG Yam-kuen was CE 24 hours a day, it would be difficult to differentiate between the time he spent on official duties vis-à-vis that on electioneering activities.

41. SCA said that a CE seeking re-election had to separate the resources spent on his duties as CE from his election expenses. The EAC would strictly apply this rule and disallow the use of public resources for election purposes. The same approach was adopted for the second term CE election when Mr TUNG Chee-hwa ran for re-election. In addition, it was a statutory requirement for candidates to submit an election return with the accounts of all election expenses and election donations to the Returning Officer after the election. A candidate was required to declare all expenses including those incurred in connection with the preparatory work of an election in the election return.

42. Mr Albert HO pointed out that although the incumbent CE had yet to announce his candidacy, his action was a de facto announcement that he would run for the CE election. In the circumstances, Mr HO asked whether from the legal point of view, such action could be construed as a formal announcement for re-election. If the answer was positive, whether expenses incurred during that period should be counted as election expenses and included in the election return.

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43. SCA responded that it would be unfair to request the CEO to comment on individual cases. CEO said that the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) required candidates to submit the election return to the REO within 30 days after the election. The election return was open to public inspection. It would not be possible for him to tell now what items a candidate would include in his election return in compliance with the law.

IV. Relationship between the Executive and the Legislature

(LC Paper No. CB(2)900/06-07(01) - Paper provided by the Administration on "Relationship between the Executive Authorities and the Legislature")

44. SCA briefed members on the paper concerning relationship between the executive authorities and the legislature.

45. Mr LEE Wing-tat said that an interface between the executive authorities and the legislature was the question time at Council meetings. In the UK, Members of the Parliament could put any questions to the Prime Minister without notice during question time. In Hong Kong, Members were required to provide their questions to the Administration two weeks in advance. By the time the questions were answered, they might no longer be topical issues. Mr LEE suggested that the Administration should consider adopting the UK practice by allowing LegCo Members to raise questions without notice, provided that the questions raised did not involve details. Mr LEE also expressed concern about the workload and manpower of the Research and Library Services Division (RLSD) of the LegCo Secretariat. He pointed out that while the policy bureaux and the principal officials were supported by permanent secretaries, deputy secretaries, principal assistant secretaries and assistant secretaries in conducting researches and analysis of policy issues, the RLSD only had a few staff. In the US, the Congressional Research Service was able to provide an analysis on an issue for the consideration of parliamentary Members a day after such request was made. In Hong Kong, it was not possible to do so because of the lack of manpower. He urged the Administration to consider allocating more resources to LegCo, so that the RLSD could respond to Members' requests for information promptly, say within one week from the date of making such request.

46. SCA said that the existing arrangements for written and oral questions at Council meetings had been working well. The questions raised by Members covered a broad range of issues and some questions raised were rather probing in nature. For oral questions, they were often followed up by supplementary questions which were answered by officials on the spot. The interaction between the Administration and Members had been going well all these years. If there was a need for raising urgent issues, Members could also move a motion for adjournment debate subject to the approval of the President. SCA suggested that the LegCo could reflect its views on the need for more resources for its Secretariat to the Chief Secretary for Administration and the Director of Administration for consideration.

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47. Dr YEUNG Sum doubted whether the executive authorities and the legislature, in exercising their respective functions, had complemented and regulated each other under the existing constitutional framework. He pointed out that most of the political parties in the LegCo were opposition parties. Given the lack of majority support in LegCo, it was difficult for the Administration to have effective governance. The only way for the executive authorities and the legislature to discharge their functions effectively was to implement universal suffrage for the CE and LegCo elections. When a CE had the mandate of the people and supported by Members belonging to his party in LegCo, the executive authorities and the legislature could complement each other. The check and balance function would be performed by other Members not affiliated with the ruling party.

48. SCA responded that there were certain constraints in the constitutional framework laid down in the Basic Law. The executive authorities and the legislature were constituted through different routes under this framework. Owing to the lack of guaranteed majority support in the LegCo, Government officials had to make the best endeavour to lobby Members' support for legislative and financial proposals put forth by the Administration. SCA said that the Government of the Hong Kong Special Administrative Region (HKSAR), however, was not the only place adopting such an approach. In New Zealand, the change in electoral methods in recent years had resulted in more members of small political parties returned to the parliament by election. The ruling party had to lobby support from these members. Some government proposals had been voted down or had stalled because of the failure to gain support from them. In the US, the opposition party currently had taken the majority seats in the Congress after the recent election. Since the executive authorities and the legislature were constituted through two different routes, the election of the CE by universal suffrage did not necessarily guarantee that the CE would have the majority support of political parties in the LegCo. Since election was first introduced to LegCo in 1985, many of the Administration's proposals had been implemented with the support of LegCo Members. The question of whether the executive authorities and the legislature could complement and regulate each other would depend on the concerted effort of both sides.

49. Mr LEUNG Kwok-hung said that Article 74 of the Basic Law, which prohibited Members from introducing bills related to public expenditure or political structure or the operation of the government, had prevented the LegCo from performing the function of check and balance on the Government. The statement that the Government of the HKSAR must be accountable to the LegCo did not serve any meaningful purpose. Mr LEUNG also questioned the independence of the CE and whether he was in the capacity to reflect the wishes of Hong Kong people, given that he was appointed by, and had to follow the policy direction of, the Central People's Government (CPG).

50. Ms Emily LAU expressed dissatisfaction that the Administration's paper had merely quoted the relevant provisions in the Basic Law on the relationship between the executive authorities and the legislature, but did not analyse the problems in the

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existing political structure. She said that the relationship between the executive authorities and the legislature was crucial to effective governance. She made the following points -

- (a) a CE supported by Members belonging to his party in the LegCo would ensure stable governance. The Basic Law did not prohibit a CE to have political background;
- (b) the requirement under BL 79(4) that a Member was no longer qualified for office if he accepted a government appointment and became a public servant had prohibited Members from becoming principal officials. The Administration should provide opportunities for political parties to participate in public administration. The stance taken by the Administration was not conducive to constitutional development;
- (c) she had been advocating the development of a multi-party system, a ruling party or a coalition government since 1991. Eight political parties/groups in the LegCo had worked together to help the Administration to deal with a number of controversial issues a few years ago. The Administration, however, maintained the view that the political structure in Hong Kong should be executive-led; and
- (d) as the Government did not have any vote in the LegCo, the Liaison Office of the CPG had canvassed votes from Members on a few occasions in the past and this was an embarrassment to the Government of the HKSAR.

51. SCA said that there was bound to be tension between the executive authorities and the legislature in any political system. This had happened in overseas jurisdictions such as the US and Canada. The political system in Hong Kong was more akin to the presidential system, under which the CE and Members of LegCo were returned through two different routes. Even when universal suffrage was implemented, there was no guarantee that the CE could gain the majority support in the LegCo. The Administration was making use of the room provided under the Basic Law to encourage political party participation, with a view to enhancing relationship between the executive authorities and the legislature. On the one hand, the CE had appointed some LegCo Members with political background to serve on the Executive Council. On the other hand, the Administration had proposed to introduce additional political layers to bring in political talents from political parties, civil service, professional or business sectors to participate in government work. SCA noted that Ms LAU did not support the proposal for further development of the Political Appointment System. He pointed out that by extending the system of political appointments, people from different backgrounds would have more opportunities to pursue a broader political career. Given time, the proposal would provide room for the CE to form a political team akin to a political coalition. In the longer term, the Administration aimed to achieve election of CE by universal suffrage.

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52. Mr Albert HO said that where there was direct election, political parties would emerge. Political party was part and parcel of a political system and it was against nature to suppress its development. It was, therefore, illogical to require a CE to relinquish his political affiliation when elected while at the same time requiring him to form a governing team. Mr HO queried the basis for forming a governing team if its members came from different walks of life and might not share the same belief. It would be difficult for members of the governing team to co-operate with one another and to enhance governance. He asked whether it was due to political pressure that the Administration had resolved to disallow the CE to have any political affiliation.

53. SCA said that the Administration had taken a positive attitude towards the development of political parties. Political party development and constitutional development were interrelated and complemented each other. The Administration had strived to introduce measures to encourage greater participation, including the following -

- (a) proposal for further development of the Political Appointment System to create more room for people of different backgrounds to participate in public affairs;
- (b) proposals, as part of the package put forth in the Fifth Report of the Constitutional Development Task Force, to increase the number of LegCo seats in the 2008 LegCo elections;
- (c) proposal to increase the number of DC seats in the 2007 DC elections due to population growth;
- (d) extending the existing financial assistance scheme applicable to candidates in the LegCo elections to candidates in the 2007 DC elections; and
- (e) allowing the printing of names and emblems of political parties on ballot papers for LegCo and DC elections.

54. SCA further said that while the CE was required to relinquish his political affiliation, principal officials were allowed to retain their political membership. Mr Henry TANG was affiliated with the Liberal Party (LP) when he was severing as Secretary for Commerce, Industry and Technology. Opinion surveys conducted by tertiary institutions had indicated that the public preferred an independent CE who could co-ordinate the interests of different political parties. The proposal for further development of the Political Appointment System sought to provide room for political talents, who could be independent or politically affiliated, to take up posts in the different layers of the Government and to strengthen the ties with the legislature.

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55. Mr James TIEN said that the submission of the LP attached in Annex 14 to the Administration's paper set out its views on the inadequacies of the existing relationship between the executive authorities and legislature and how the situation could be improved. Mr TIEN said that although three LegCo Members were at present appointed to serve on the Executive Council, their influence on policy decisions was limited. Mr TIEN questioned whether the proposal to appoint persons with political background as deputy directors of bureau under the Political Appointment System would work. He said that the appointees would tend to take orders from the Government during their terms of office and would unlikely represent the interests of the political parties with which they were affiliated. Citing the case of Mr Henry TANG as an example, Mr TIEN said that during the term of office of Mr TANG as the Secretary for Commerce, Industry and Technology, the Closer Economic Partnership Arrangement, which was supported by the LP and the business sector, was successfully implemented. However, when Mr TANG assumed the post of the Financial Secretary, he had faced immense opposition to the proposed introduction of the Goods and Services Tax, which was against the wish of the LP and its the business sector. Mr TIEN urged the Administration to consider the possibility of forming a ruling coalition with Members in a progressive manner. LP had suggested that initially, a policy bureau could collaborate with a political party on issues in which both sides shared the same policy objective. He asked whether the proposal would contravene the Basic Law and the executive-led principle.

56. SCA said that it was consistent with the Basic Law for principal officials to maintain regular liaison with different political parties and to secure their support on government policies. Regarding the LP's view on a ruling coalition and better liaison between the political parties and the Administration, SCA said that the Administration would create more room for people of different backgrounds to participate in politics by taking up positions in different layers of the Government, such as Executive Council Members, principal officials, deputy directors of bureau and assistants to directors of bureau.

57. Mr TAM Yiu-chung said that the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) would support government proposals which would meet the long term interests of Hong Kong and the wishes of the people. The DAB would perform its monitoring function by criticising proposals which did not meet these objectives. The approach taken by the DAB had been pragmatic in that it would not oppose an issue for the sake of opposition. Where necessary, it would give constructive comments. Mr TAM was of the view that while it was the duty of the executive authorities to formulate and implement policies, the Administration should allow room for amendments to its legislative and financial proposals. Mr TAM further said that the political parties of Hong Kong were still at the developmental stage. He urged political parties to work hard so as to gain the support of the people and to attract talents. Political parties would flourish when the public had confidence in their work.

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58. SCA said that the Administration had been listening to the views of different political parties. He said that many of the proposals put forth by the Administration were amended, taking into account Members' views, before passage by the LegCo.

59. Dr KWOK Ka-ki expressed disappointment that little progress had been made to improve the relationship between the executive authorities and the legislature since the reunification 10 years ago. A ruling coalition, a basic demand for democracy as advocated by the LP, had been rejected by the Administration. In his view, Hong Kong was ready and had a pool of political talents to form a ruling coalition, e.g. Ms Emily LAU, Mr James TIEN and Mr MA Lik were prominent political figures. The Administration, however, was stalling political development. Dr KWOK queried how the proposal of furthering the Political Appointment System would promote political development when the deputy directors of bureau were not held accountable. He held the view that if leaders of political parties were appointed to political positions, they should assume the posts of principal officials and not deputy directors of bureau.

60. SCA disagreed that no progress had been made in the political system of Hong Kong in the past 10 years. He pointed out that the number of directly elected seats in the LegCo had increased from 20 to 30. The implementation of the Political Appointment System had allowed the CE to form his own governing team with principal officials serving a term of five years. The governing team was similar to the cabinet system in democratic countries whereby ministers served the same tenure as the leader of the government. In his view, the Political Appointment System had brought the political system of Hong Kong closer to that of the democratic jurisdictions overseas. SCA further said that the Administration had previously introduced initiatives to open up the political system. The proposals for amending the electoral methods in 2007/08 for selecting the CE and the LegCo could have broadened the participation of DC members in the Election Committee and the LegCo, but the opposition party had voted down these proposals. Nevertheless, the Administration would continue to explore means to expand the room for political talents to take part in politics.

61. There being no other business, the meeting ended at 10:47 am.