

立法會
Legislative Council

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LC Paper No. CB(2)2468/06-07
(These minutes have been seen
by the Administration)

Panel on Constitutional Affairs

Minutes of meeting
held on Monday, 16 April 2007, at 2:30 pm
in Conference Room A 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
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon LEE Cheuk-yan
Hon Martin LEE Chu-ming, SC, JP
Hon Margaret NG
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon CHEUNG Man-kwong
Hon CHAN Yuen-han, JP
Hon Bernard CHAN, GBS, JP
Hon LEUNG Yiu-chung
Dr Hon Philip WONG Yu-hong, GBS
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Howard YOUNG, SBS, JP
Dr Hon YEUNG Sum
Hon LAU Kong-wah, JP
Hon Emily LAU Wai-hing, 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 Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Dr Hon KWOK Ka-ki
Hon WONG Ting-kwong, BBS
Hon Ronny TONG Ka-wah, SC
Hon CHIM Pui-chung
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon KWONG Chi-kin

- Members absent** : Hon Albert HO Chun-yan
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon WONG Yung-kan, JP
Hon LAU Wong-fat, GBM, GBS, JP
Hon CHOY So-yuk, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon MA Lik, GBS, JP
Hon Daniel LAM Wai-keung, SBS, JP
Hon CHEUNG Hok-ming, SBS, JP
- Public Officers attending** : Item II
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 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
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 : Mrs Eleanor CHOW
Senior Council Secretary (2)4

Mrs Fonyy TSANG
Legislative Assistant (2)3

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I. Items for discussion at the next meeting

(LC Paper No. CB(2)1569/06-07(01) - List of outstanding items for discussion)

Secretary for Constitutional Affairs (SCA) proposed to discuss the following items at the next meeting of the Panel on Constitutional Affairs (CA Panel) on 21 May 2007 -

- (a) Practical arrangements for the 2007 District Council (DC) election; and
- (b) Models, roadmap and timetable for selecting the Chief Executive (CE) and for forming the Legislative Council (LegCo) by universal suffrage.

Models, roadmap and timetable for selecting the CE and for forming the LegCo by universal suffrage

2. SCA informed members that the Committee on Governance and Political Development of the Commission on Strategic Development (CSD) would organize a workshop in May 2007 to discuss the models for universal suffrage. He would provide the relevant papers for reference of the Panel before the next meeting.

3. Dr YEUNG Sum said that as the Government would publish a Green Paper on constitutional development in mid-2007 to consult the public on the models, roadmap and timetable for selecting the CE and for forming the LegCo by universal suffrage, the Panel should receive views from the organizations and individuals who had given views on the above subject to the CSD at its next meeting, prior to the publication of the Green Paper. Members agreed.

Role of the CSD

4. Ms Margaret NG informed members that at the meeting held that morning, the Panel on Public Service (PS Panel) had discussed the Administration's proposal to extend one supernumerary post of Administrative Officer Staff Grade C (D2) as

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Assistant Secretary to the CSD for two years with effect from 1 July 2007. Arising from the discussion, some members had suggested that the role of the CSD should be reviewed. She proposed that the issue should be included into the agenda of the next meeting of the CA Panel.

5. Mr Howard YOUNG, Chairman of the PS Panel, advised that while some members of the PS Panel had expressed concern on the role of the CSD, it was decided that the Panel was not the appropriate forum to discuss the subject. Some members of the PS Panel had suggested that the matter should be referred to the CA Panel.

6. Mr TAM Yiu-chung pointed out the work of the CSD straddled a number of policy areas and was not confined to constitutional affairs. The CA Panel might not be the most appropriate forum to discuss the issue.

7. Some members, including Ms Margaret NG, Ms Emily LAU, Dr YEUNG Sum and Mr LEE Cheuk-yan, said that the issue could be discussed at a special meeting of the CA Panel or a subcommittee formed under the House Committee. Ms Margaret NG and Ms Emily LAU said that the CSD should be requested to provide a paper to address the following concerns raised by members over the role and establishment of the CSD -

- (a) given the establishment of the LegCo, the Executive Council and other advisory bodies under the Basic Law, the role of the CSD in the context of Hong Kong's political structure;
- (b) the impact of the establishment of the CSD on the roles of the bodies mentioned in (a) above, e.g. whether the CSD duplicated, supplemented or undermined their respective roles;
- (c) the cost-effectiveness of the CSD and the justifications for its continued operation; and
- (d) the need for conducting a comprehensive review on the role and positioning of the CSD.

8. SCA said that the subject was outside the purview of the Constitutional Affairs Bureau and he would reflect members' views to the Central Policy Unit.

9. The Chairman said that the matter should be referred to the House Committee for consideration. He concluded that the two items proposed by SCA in paragraph 1 above would be discussed at the next CA Panel meeting on 21 May 2007.

(Post-meeting note : Subsequent to the meeting, the Chairman agreed that the item on "Role of the CSD" should be discussed at the next regular meeting of the CA Panel on 21 May 2007. At the request of the Administration and with

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the concurrence of the Chairman, the item "Practical arrangements for the 2007 District Council election" was deferred for discussion at a future meeting.)

II. 2007 Voter Registration Campaign

(LC Paper No. CB(2)1569/06-07(02) - Administration's paper on "2007 Voter Registration Campaign")

10. SCA introduced the paper which set out the main features of the 2007 voter registration campaign.

11. Mr LEE Cheuk-yan asked about the timeline for counting a Hong Kong permanent resident having reached 18 years of age and a person having ordinarily resided in Hong Kong for seven years, in order to be eligible for registration as electors.

12. Chief Electoral Officer (CEO) explained that the timeline was based on the publication date of the final register. In a DC election and non-DC election year, the final register would be published on or before 25 September and 25 July respectively, i.e. a permanent resident who reached 18 years of age on or before 25 September or 25 July (as the case might be) would be eligible for registration as an elector. The eligibility for voter registration depended on whether the person was a permanent resident and ordinarily resided in Hong Kong.

13. Mr LEE Cheuk-yan referred to paragraph 4 of the paper and asked how an elector who had changed his residential address but had not reported such a change to the Registration and Electoral Office (REO) would affect his eligibility to vote.

14. CEO said that the deadline for registered electors to update their particulars for 2007 was 29 August. If a registered elector who had changed his residential address did not update with the REO his particulars before the deadline, the REO could only assign him to vote at a polling station on the basis of his previous residential address. His eligibility to vote in the constituency based on his actual address might be affected if for some reasons his address in the final register was different from his actual address.

15. Mr Howard YOUNG urged the Administration to step up publicity to encourage electors to update their particulars. He was aware that a registered elector had once received more than 10 identical election-related publicity materials addressed to previous residents of his present residence.

16. SCA said that the REO would conduct random checking on an address which had more than ten registered electors. The REO noted that in some cases, such as an elderly home, the same address was used by many electors. To ensure accuracy in the final register, the REO would for example, conduct checking based on mails

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undelivered and returned to the REO. Thorough checking would be conducted to ascertain that a registered elector was no longer residing in the address recorded, before his name was removed from the final register.

17. CEO supplemented that publicity efforts to remind registered electors to update their particulars would be taken. Relevant Government departments, such as the Post Office, the Water Supplies Department and the Transport Department had been requested to consider to provide the REO with requests for change of address they received, subject to the consent of the persons concerned, so that the REO could follow up by updating the address of those who were registered voters accordingly.

18. Mr WONG Ting-kwong expressed concern that registered electors only had two weeks to respond if they found that their addresses were inaccurate in the provisional register to be published on or before 15 August. He suggested that the deadline for registered electors to update their particulars (29 August) should be extended. He also suggested that the registration counters at all Registration of Persons Offices setting up for the purpose of handling applications of registration as electors from young people reaching 18 years of age should also handle applications from persons who had become permanent residents of Hong Kong after ordinarily resided in Hong Kong for seven years.

19. SCA and CEO explained that the time for registered electors to update their particulars was not confined to the two weeks between 15 and 29 August and they could update their particulars any time before 29 August. If a registered elector was uncertain whether his address had been updated after change of address, he could check with the REO hotline at any time of the year and update his record accordingly. The date of publishing the provisional register and the deadline for registered electors to update their particulars were stipulated in law and had been carefully worked out to tie in with the polling date. There was no room to change the statutory deadline. CEO said that the second suggestion made by Mr WONG was technically feasible. (Note : According to the REO, the counters would handle voter registration for all groups of eligible voters and not just young people reaching 18.)

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20. Mr CHEUNG Man-kwong expressed concern about the low registration rates of young people at the 18 to 20 and the 21 to 25 age groups, which were 21% and 52% respectively. He suggested that the REO should seek assistance from secondary schools and tertiary institutions to promote registration. For instance, prefects and student leaders at schools could be hired to work on a part-time basis to promote registration. Incentives could also be given by the Administration to those who had secured more registrations. In his view, this measure would be more cost effective than employing roving registration counters on the streets.

21. SCA said that the REO had established contacts with the tertiary institutions and also visited over 50 secondary schools to promote awareness of voter registration. He considered Mr CHEUNG's proposal innovative.

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22. CEO pointed out that the deadline for registration for a DC election year was 16 July, it was a time in which higher education institutions were in their summer recess. It was therefore not easy to promote voter registration in these institutions during that period. Nevertheless, the REO would take into account Mr CHEUNG's proposal for future campaigns.

23. Dr KWOK Ka-ki asked about the budget and target of the voter registration campaign. Given the low registration rate of young people, he enquired whether registration could be done on-line.

24. SCA responded that \$14 million had been earmarked for the 2007 voter registration campaign with a target of registering 163 000 additional electors, and the budget was comparable to that of the 2003 DC voter registration campaign. SCA further said that increasing the registration rate of young voters at the 18 to 20 and 21 to 25 age groups had always been a challenge as there were new entrants to these two age groups every year. To encourage more young people to register, visits would be paid to higher education institutions to facilitate eligible students to register. A dedicated website would also be set up which would hyperlink with certain websites which young people frequently visited, so as to enhance the appeal to them to make applications for voter registration.

25. Dr KWOK Ka-ki and Mr LEUNG Kwok-hung expressed dissatisfaction that appointed membership still existed in DCs. Mr LEUNG held the view that some people had declined to register as electors because they were dissatisfied with the composition of DCs.

26. SCA responded that the Administration maintained the view that appointed members had made valuable contributions to DCs. They should be retained for the next term DC, in order to ensure the continuation of smooth delivery of district services.

III. Possible models for selecting the Chief Executive and for forming the Legislative Council by universal suffrage

(LC Paper No. CB(2)1513/06-07(01) - Transcript of the media briefing given by the Secretary for Constitutional Affairs on 3 April 2007

LC Paper No. CB(2)1520/06-07 - Papers for the meeting of Committee on Governance and Political Development held on 12 April 2007

LC Paper No. CB(2)1569/06-07(03) - Administration's paper on "Possible models for selecting the Chief Executive and for forming the Legislative Council by universal suffrage"

LC Paper No. CB(2)1583/06-07(01) - Transcript of the media briefing given by the Secretary for Constitutional Affairs and the Head, Central Policy Unit on 12 April 2007)

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27. SCA said that the CSD had held a meeting on 12 April 2007 to discuss the possible models, roadmap and timetable for electing the CE and for forming the LegCo by universal suffrage. Most members of the CSD agreed that a nominating committee should be formed in accordance with Article 45 of the Basic Law (BL 45). On that basis, members discussed the composition of the nominating committee, the nomination threshold and the method for forming the nominating committee, etc. As regards the forming of the LegCo by universal suffrage, there were divergent views on whether or not functional constituencies (FCs) should be abolished. Some members held the view that universal suffrage for the CE should be implemented first, given that it was likely that the community would take a longer time to reach consensus on the model for implementing universal suffrage for the LegCo.

28. SCA further said that a workshop would be organised by the CSD on 10 May 2007 and the CSD would also hold its final meeting on 21 June 2007 within its existing term. At this point in time, the Administration had not yet drawn any conclusion from these discussions. The Administration hoped that different sectors of the community would submit their proposals before mid-June so that they could be included in the Green Paper. He assured members that all the proposals received would be reflected faithfully in the Green Paper. Based on these proposals, the Administration would present three types of models for implementing universal suffrage for the CE and LegCo elections respectively in the Green Paper (the models in the Green Paper) to facilitate discussion during public consultation. The Administration hoped that through the interaction with the public and the LegCo, differences would be narrowed and a mainstream view would emerge in the community.

29. Dr YEUNG Sum referred to the transcript of a media briefing given by SCA on 3 April 2007 and quoted SCA's remarks on universal suffrage models for LegCo as follows -

- (a) the first category of proposals involved abolishing all the FC seats and replacing them by geographical constituency elections;
- (b) the second category of proposals involved allowing FCs to exist but FC bodies should nominate candidates and the candidates nominated should be returned as LegCo Members by "one man, one vote"; and
- (c) the third category of proposals involved phasing out of FCs in stages until universal suffrage was attained.

Dr YEUNG Sum asked whether the above approach of categorising the proposals for universal suffrage would be adopted in the Green Paper. If so, he would voice strong objection because the approach was tantamount to dismantling the proposals submitted by the various parties. It would be an insult to the proponents because these proposals came as a package and there were principles and concepts behind

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them. If dismantled, these proposals would be distorted and would lose their merits. Dr YEUNG said that, for example, the first category of proposals involving the abolition of all the FC seats could have many variations. Comments made by the public on this category could be out of context if they were not aware of the original proposals. He said that the Administration should have faith in the ability of the public to choose a specific proposal and it was inappropriate for the Administration to mix and match the different proposals received to come up with its own models in the Green Paper. Dr YEUNG also expressed dissatisfaction that the three categories of proposals had provided no ultimate timetable for achieving universal suffrage.

30. SCA said that all the proposals received would be covered in the Green Paper. The purpose of categorising the models in the Green Paper was to ensure a broad coverage of the proposals received and to facilitate public discussions in a focused manner. The Administration was serious and fair in making the categorisation. Take the CSD paper as an example, the proposal of the 21 pan-democratic Members was reflected in both the main body of and annex to the paper. As regards the timetable for universal suffrage, reference could be made to the individual proposals. For instance, the 21 pan-democratic Members had advocated dual elections by universal suffrage in 2012 and the Liberal Party had advocated the abolition of FC by three phases in 2016, 2020 and 2024. These and all other proposals received would be faithfully reflected in the Green Paper.

31. Dr KWOK Ka-ki said that the Administration had introduced confusing elements in the electoral methods for the purpose of stalling the implementation of universal suffrage. These elements, such as the nomination threshold and the FC system, were unnecessary and were not found in the electoral system of overseas countries practising universal suffrage. Given that the public aspiration was to implement dual elections by universal suffrage in 2012, he asked whether this proposal would be one of the models in the Green Paper.

32. Mr LEE Cheuk-yan said that it had been the practice of the Administration to include proposals/submissions received in an annex to a consultation document. He stressed that the 21 pan-democratic Members wanted their proposal to be one of the models in the Green Paper. He asked what criteria would be adopted by the Administration in formulating the models in the Green Paper and the "final" models for the two electoral methods.

33. SCA said that through discussions in the CSD and the LegCo over the past years, steady progress had been made on the possible models, roadmap and timetable for implementing universal suffrage. He said that the FC system was a historical reality in the development of Hong Kong's political structure while the setting up of a nominating committee to select a CE was a requirement under the Basic Law. He pointed out that models for universal suffrage adopted by overseas countries might not be suitable for Hong Kong. In order to attain universal suffrage for Hong Kong, any models put forth should satisfy the following criteria -

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- (a) they should be consistent with the Basic Law and no amendments to the main provisions of the articles of the Basic Law should be required;
- (b) they should attract majority support among Hong Kong people;
- (c) they would stand a reasonable chance of securing two-thirds majority support in the LegCo; and
- (d) they would stand a good chance of being considered seriously by the Central People's Government (CPG).

34. SCA further said that he certainly hoped that the models in the Green Paper could meet these criteria. It was the view of the Administration that models meeting the above criteria would stand a better chance of public acceptance and LegCo support. The Administration hoped that through an interactive approach in the discussions of these models, differences would be narrowed and a consensus could be reached in the community. He urged proponents not to be self-centred during the discussions and be receptive to consider proposals other than their own. At the end of the three-month public consultation period, a report would be submitted to the Central Authorities, which would reflect any mainstream views formed during the public consultation and other views formed.

35. Mr LEUNG Kwok-hung held the view that the best way to gauge public opinion on any proposed electoral methods was by means of a referendum. SCA responded that the Basic Law did not provide a mechanism for conducting a referendum. According to the Basic Law, any amendments to the electoral methods would require the support of a two-thirds majority of all LegCo Members, the consent of the CE and the approval of the Standing Committee of the National People's Congress (NPCSC). The four criteria mentioned above reflected these constitutional requirements.

36. Mr CHEUNG Man-kwong expressed concern that the fourth criterion did not contain any objective yardsticks and was subject to the sole discretion of the CPG. There was a possibility that a model which had met the first three criteria would not be considered by the CPG. He noted that in response to the fourth criterion, some people had proposed a self-censure procedure to ensure that their proposals would be considered by the CPG. For instance, Miss Maria TAM Wai-chu had proposed a preliminary screening selection process whereby CE candidates were required to attain support from one-fourth of the Hong Kong deputies to the National People's Congress to be eligible for nomination.

37. Mr Ronny TONG concurred with Mr CHEUNG and asked about the circumstances under which the CPG would not seriously consider a proposal which had met the first three criteria. He asked whether the Administration had received any information from the CPG that it would accept or not accept certain proposals.

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For instance, a conservative proposal would likely be considered by the CPG. He agreed that while the CPG had the constitutional power to reject or support a proposal on electoral methods, it should also take into account public aspiration and its constitutional obligations stipulated under the Basic Law.

38. SCA said that the Administration attached importance to public opinion and believed that a proposal which met the first three criteria would stand a better chance of being seriously considered by the CPG. It was necessary for the proposal to achieve both consensus within the Hong Kong community and between Hong Kong and the CPG. SCA stressed that any electoral methods for universal suffrage had to take account of the role and responsibility of the CPG under the constitutional framework. The ultimate power of the CPG to determine the constitutional development of Hong Kong was substantive. The notion that the CPG would accept or not accept certain proposals was speculative. At this stage, the Administration adopted an open attitude to discuss any proposals on universal suffrage received.

39. Ms Emily LAU doubted whether the "final" models for the two electoral methods would meet the international standard of universal suffrage. If not, the Administration was conducting a sham consultation on the Green Paper. The guiding principle for universal suffrage was "universal" and "equal" suffrage. Equal suffrage included the right for all citizens to nominate and to vote for a candidate at an election. It was the view of the Frontier that the ultimate aim of selecting the CE by universal suffrage could be achieved under the existing framework of BL 45, provided that members of the nominating committee were returned by universal suffrage and the nomination threshold was set at a low level. She advocated that the public should be allowed to choose a specific proposal and not a "modified" model formulated from different elements of the various proposals. She said that conducting a three-month period consultation during summer recess was another manifestation of sham consultation.

40. Mr TAM Yiu-chung said that members should adopt a pragmatic attitude in dealing with constitutional issues. As an academia had once pointed out, if every Member insisted that his proposal was the only one right for Hong Kong, universal suffrage was unlikely to be achieved in 2047. Such an attitude would not be conducive to the constitutional development of Hong Kong.

41. Mr LEE Cheuk-yan said that the Administration would mix and match different models received to come up with models that would suit the needs of the Government. In his view, the so-called public consultation was a magic show seeking to manipulate public opinion. The proposal of the 21 pan-democratic Members, which represented the view of the people, should be presented in its original form and as one of the options in the Green Paper.

42. SCA responded that the Administration had the constitutional responsibility to formulate a package of proposals for universal suffrage. Before the proposed package could be formulated, the Administration had to listen to views from

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different sectors of the community. Based on the views collected, the Administration would determine which types of models would likely be accepted by the public and the LegCo. The Administration had received many proposals and it was impossible and unfair to select only three specific proposals and present them in the Green Paper for the consideration of the public. At this stage, the Administration had not come to the view of what models would be presented in the Green Paper.

43. SCA further said that the comments made by some members about "sham consultations" were unfair. It was unnecessary for the Administration to entrust CSD to collect views on universal suffrage, listen to Members' views at Panel meetings, and issue a Green Paper if it wanted to conduct a sham consultation. SCA said that the public was free to give views on specific proposals and the models in the Green Paper. The "final" proposal should receive the support of a two-third LegCo Members and the public. The Administration hoped that through discussions, differences among Members, political parties and groups would be narrowed. He pointed out that pan-democratic Members who advocated the abolition of FCs in one go should realise the political reality that they had to lobby support from at least another 19 Members. If all parties refused to compromise, there was no way consensus could be reached within the community and for constitutional development to move forward. It was a political reality that concerted effort from all parties was required in order to achieve universal suffrage.

44. Mr James TIEN said that the views of the Liberal Party (LP) on universal suffrage were as follows -

- (a) the LP advocated that CE election by universal suffrage should be implemented in 2012 and the number of subscribers required for nominating a candidate should be high. A higher nomination threshold would ensure that there would not be too many candidates and hence the candidates elected would be more likely to be accepted by the CPG. The LP had not made any specific proposal on the size of the nominating committee or the nomination threshold. In his view, any proposed electoral methods to be introduced in 2012 would be more progressive than the one for the 2007 CE election; and
- (b) universal suffrage for the CE should precede that for the LegCo. The LP held the view that introducing too many changes to the political system at one time was inappropriate. It proposed that FCs should be abolished by three stages in 2016, 2020 and 2024 so as to comply with the principle of "gradual and orderly progress".

45. Mr James TIEN pointed out that if universal suffrage would be implemented for the CE election in 2012, the timeframe for enacting legislation to amend Annex I to the Basic Law and to form a nominating committee would be 2010 and 2011 respectively. In this connection, there was no urgency for the Administration to conduct public consultation in the summer of 2007. In his view, it would be more

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practical to conduct public consultation in 2009, i.e. after the election of the fourth term LegCo in 2008, given that views of incumbent Members did not necessarily represent those of the fourth term LegCo Members, and public aspiration might change between 2007 and 2009.

46. SCA responded that the CE had pledged to make the best endeavour to resolve the issue of universal suffrage within his next term of office. Given that universal suffrage was a complicated issue, it would be prudent to start the discussion early. The Administration had learnt from past experience that the process for formulating an electoral proposal and securing support from the public and the LegCo on the proposal was not an easy task. The future of FCs, in particular, was highly contentious. The Administration believed that with more time for discussions and resolving differences, there was a better chance to achieve consensus in the community.

47. The meeting ended at 5:40 pm.

Council Business Division 2
Legislative Council Secretariat
13 July 2007