

立法會
Legislative Council

LC Paper No. CB(2)284/07-08
(These minutes have been seen
by the Administration)

Ref : CB2/PL/CA

Panel on Constitutional Affairs

**Minutes of special meeting
held on Friday, 7 September 2007, at 9:30 am
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)
 - Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
 - Hon Martin LEE Chu-ming, SC, JP
 - Hon Margaret NG
 - Hon CHEUNG Man-kwong
 - Hon CHAN Yuen-han, SBS, JP
 - Hon LEUNG Yiu-chung
 - Hon Jasper TSANG Yok-sing, GBS, JP
 - Dr Hon YEUNG Sum, JP
 - Hon LAU Kong-wah, JP
 - Hon LAU Wong-fat, GBM, GBS, JP
 - Hon Emily LAU Wai-hing, 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 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
 - Prof Hon Patrick LAU Sau-shing, SBS, JP
- Members absent** :
- Hon James TIEN Pei-chun, GBS, JP
 - Hon Albert HO Chun-yan
 - Hon LEE Cheuk-yan
 - Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
 - Hon Bernard CHAN, GBS, JP
 - Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP

Dr Hon Philip WONG Yu-hong, GBS
Hon WONG Yung-kan, SBS, JP
Hon Howard YOUNG, SBS, JP
Hon CHOY So-yuk, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon LI Fung-ying, BBS, JP
Hon CHIM Pui-chung
Hon KWONG Chi-kin

Public Officers : Item I
attending

Mr Stephen LAM Sui-lung
Secretary for Constitutional and Mainland Affairs

Mr Joshua LAW Chi-kong
Permanent Secretary for Constitutional and Mainland
Affairs

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

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

Staff in : Ms Amy YU
attendance : Senior Council Secretary (2)3

Mrs Fanny TSANG
Legislative Assistant (2)3

Action

I. Models, roadmap and timetable for selecting the Chief Executive and for forming the Legislative Council by universal suffrage
(LC Paper No. CB(2)2664/06-07(01) - Administration's paper on "Green Paper on Constitutional Development")

LC Paper Nos. CB(2)2264/06-07(02) to (10) - Press releases issued by the Administration concerning the Green Paper on Constitutional Development (12 July - 28 August 2007)

Green Paper on Constitutional Development

Action

Statement by the Chief Secretary for Administration on the Green Paper on Constitutional Development at the Council meeting on 11 July 2007

LC Paper No. CB(2)2471/06-07(01) - Transcripts of remarks made by the Chief Executive, the Chief Secretary for Administration and the Secretary for Constitutional and Mainland Affairs to the media on the Green Paper on Constitutional Development on 11 July 2007)

Arrangement for the special meeting on 14 September 2007

The Chairman informed members that in view of the large number of organizations/individuals requesting to present views to the Panel on the Green Paper on Constitutional Development (the Green Paper), apart from the meetings on 10 and 12 September 2007, the meeting scheduled for 14 September 2007 would also be used for receiving public views.

The Green Paper

Progress of public consultation

2. Secretary for Constitutional and Mainland Affairs (SCMA) briefed members on the progress of the consultation work undertaken by the Administration on the Green Paper. In the past two months, apart from listening to the views of the Legislative Council (LegCo), the Administration had also met with 12 District Councils (DCs) to discuss the Green Paper and would meet with the other six DCs within September. Furthermore, the Administration had attended meetings and forums organized by trade unions, chambers of commerce, professional groups, Heung Yee Kuk, women's groups and other community organizations to discuss the issue of constitutional development in Hong Kong. The Administration had so far received several hundreds of submissions from organizations/individuals on the Green Paper, which had triggered constructive discussion on the issue of universal suffrage in different quarters of the community in the past two months.

3. Mr LEE Wing-tat said that public discussion on the Green paper had been less than enthusiastic so far, in part because the consultation document was too complex and its presentation did not make it easy for the public to express their views on the key issues on universal suffrage. Mr LEE asked whether consideration would be given to preparing a simplified version of the consultation document to facilitate public discussion.

4. SCMA responded that the Green Paper presented the crucial elements contained in some 300 proposals on the issue of universal suffrage received by the Administration in the past few years in a systematic and structured manner. The

Action

Green Paper aside, the Administration had also prepared a pamphlet to highlight the key issues and options for implementing universal suffrage contained in the Green Paper. According to his experience, members of the public who had participated in the open and regional forums demonstrated a good grasp of the critical issues which needed to be dealt with in attaining universal suffrage, including the timetable for universal suffrage, the formation and operation of the nominating committee (NC) and the future of functional constituencies (FCs).

5. Mr LEE Wing-tat further asked whether, apart from consulting the DCs and organizing regional forums, the Administration had planned to do more to enhance community discussion on the Green Paper at the district level. For instance, the District Offices could organize, jointly with district organizations, some consultation forums for local residents.

6. SCMA said that the Administration had been consulting widely during the consultation period. Aside from meeting with DCs and organizing regional forums, the Administration had also held open forums and attended meetings and forums held by organizations of different sectors. In the coming month, the Administration would continue to listen to the views of different sectors and strata of the community on the Green Paper and would further enhance its public consultation work as deemed necessary.

7. Mr LEE Wing-tat said that universal suffrage was more than just the casting of votes by the public. Its implementation should be supported by strategies and measures on the development of political parties, grooming of political talent, promotion of national and civic education, and improvement of the relationship between the executive authorities and the legislature. Mr LEE was disappointed that the Commission on Strategic Development (CSD) had not supported his suggestion of setting up a task group under the CSD to discuss these issues in the coming year, and hoped that the Administration would initiate discussions on such issues. Mr LEE further opined that consideration should be given to conducting a second round of consultation on specific proposals after the close of the current consultation exercise.

8. Ms Audrey EU said that she gathered from newspaper reports that public discussion on the Green Paper had so far focused on the issue of the timetable for implementing universal suffrage, with relatively less discussion on the models for universal suffrage. Ms EU asked what the Administration would do to stimulate more discussion on the models for implementing universal suffrage.

9. SCMA explained that many media reports on the DC meetings and open forums had spotlighted on the discussion on the timetable for implementing universal suffrage. Apart from such discussion, there were also many useful and in-depth exchanges on issues pertaining to the models for implementing universal suffrage in these meetings and forums, such as the composition and operation of the NC and the future of FCs.

Action

10. Mr Ronny TONG said that the two open forums conducted were far from adequate in gauging public views on the matter. Noting from newspaper reports that the two forums were dominated by supporters of certain political parties in order to promote their views on universal suffrage, Mr TONG hoped that the Administration would not treat the views expressed as a true reflection of public opinion. He further urged the Administration to explore ways to enhance its consultation at the district level with a view to gathering the genuine views of the general public and prevent such channels from being monopolized by political parties and groups.

11. SCMA responded that given that Hong Kong was an open society, various political parties and groups were free to use different channels and strategies to influence public opinion on certain matters. For instance, the pan-democratic Members had distributed a questionnaire with standard answers to the public to gain public support on their recommended models for universal suffrage. Similarly, other political parties could use other means to lobby public support. SCMA further said that apart from supporters of political parties, the open forums were also attended by many other independent members of the public who voiced their own personal views on the matter. In addition to the open forums, four regional forums had been held, each attended by hundreds of participants. Nonetheless, the Constitutional and Mainland Affairs Bureau would discuss with the District Offices to explore other channels for enhancing the participation of members of the public on the discussion of the Green Paper.

Consultation with DCs

12. At the request of Mr TAM Yiu-chung, SCMA further elaborated on the Administration's consultation with DCs on the Green Paper. The Administration had so far attended the meetings of 12 DCs. The attendance rates of the meetings were around 98-99%, showing that DC members were concerned with the issue of universal suffrage. Many of the 12 DCs had passed motions on the Green Paper. In most cases, the motions expressed support for the suggestion that universal suffrage for the Chief Executive (CE) should precede that for LegCo and called for the implementation of universal suffrage for the CE no later than 2017. During the meetings, many views were expressed on issues such as the composition of the NC and the future of FCs, albeit such issues were not covered in the motions passed.

13. Mr TAM Yiu-chung enquired about the views of the DCs on the options set out in the Green Paper regarding FC seats.

14. SCMA said that the Administration had outlined three types of options for dealing with FC seats. First, all these seats should be replaced by district-based seats returned through direct elections. Second, they should be retained with changes to the electoral method. Under the third option, FC seats would be replaced with seats returned by DC members electing among themselves. There

Action

were different levels of support among DC members for the three options. Those in favour of dual universal suffrage in 2012 supported the first option. On the other hand, some advocated for the second option which was considered to be in accordance with the principle of balanced participation. As regards the specific proposal under the second option of allowing FCs to nominate candidates for election by all voters, there were differing views as to whether the electoral method should be "one-person-one-vote" or "one-person-multiple-votes". Some DC members supported the third option.

Timetable for implementing universal suffrage

15. Ms Audrey EU referred to the remarks made by Mr CHENG Yiu-tong, a Member of the Executive Council (ExCo), at an interview with Cable TV broadcasted on 25 August 2007, that the introduction of universal suffrage in 2012 was impossible and that the Central Authorities would make clear its position on the timetable for implementing universal suffrage. Ms EU said that such remarks flied in the face of the Green Paper which had included 2012 as one of the target dates for implementing universal suffrage for the CE and the LegCo, and requested the Administration to clarify whether dual universal suffrage in 2012 was still a valid option.

16. SCMA advised that the Administration had been keeping track of public views and discussions on the Green Paper in the past two months, including views expressed by members of ExCo, LegCo and DCs. The Administration noted that Mr CHENG Yiu-tong had subsequently clarified that his remarks represented his personal views only. At this stage, the Administration kept an open-mind to all the options presented in the Green Paper which was still under public consultation and had not formed any views on the model, roadmap and timetable for attaining universal suffrage. It was the hope of the Central Authorities that the public consultation exercise would serve to forge broad consensus on the issue of universal suffrage within the community so that constitutional development in Hong Kong could be taken forward in accordance with the Basic Law (BL).

17. Ms Emily LAU said that apart from the remarks made by Mr CHENG Yiu-tong, it was also reported in the newspapers that Mr Jasper TSANG, also a Member of ExCo, had expressed concurrence with Mr CHENG's views. Ms LAU queried whether it was proper for ExCo Members to express personal views against an option set out in the Green Paper which had been approved by ExCo for release for public consultation. Ms LAU further asked whether the rule of collective responsibility still applied to ExCo Members.

18. SCMA responded that ExCo had always operated on the rules of collective responsibility and confidentiality. He further explained that as the purpose of publishing the Green Paper was for the Administration to listen to views of different sectors and strata of the community on all issues relevant to universal suffrage and given that the Administration had not yet formed any views on the

Action

matter, ExCo Members, like other members of various political parties and groups, could express their personal opinion on the matter. This was different from the situation whereby ExCo had come to a decision on a policy matter in which case ExCo Members would be expected to observe the rule of collective responsibility irrespective of their political affiliations and refrain from taking their disagreements with the majority decision to the public.

19. Mr Jasper TSANG said that he had indeed remarked that he shared Mr CHENG Yiu-tong's views on the timetable for implementing universal suffrage. Mr TSANG further said that he saw no conflict between his remarks and his capacity as a Member of ExCo.

20. Mr TAM Yiu-chung said that according to his experience as a former ExCo Member, ExCo Members could express their personal views on a matter which was still undergoing public consultation.

21. Ms Emily LAU maintained that she considered it inappropriate for ExCo Members to rule out an option listed in the Green Paper released by the Government for public consultation. She further asked whether the content of the Green Paper had been approved by ExCo before it was released for public consultation.

22. SCMA responded that ExCo had given approval for the Administration to release the Green Paper to consult public views on universal suffrage. The Administration had only reflected in a systematic and structured manner the proposals received in respect of universal suffrage in the past few years in the Green Paper. SCMA reiterated that ExCo Members were free to express their views on the Green Paper during the public consultation stage, in the same way as members of various political parties.

Nomination method of CE candidates

23. In response to Ms Emily LAU's comment that the Green Paper was silent on the nomination method of CE candidates, SCMA said that the Green Paper had set out in Chapter Three the various steps involved in attaining universal suffrage for the CE as provided under BL 45. The first step was the formation of a broadly representative NC. In this regard, the Green Paper outlined various options on the composition and size of the NC for public discussion. The next step was the nomination of CE candidates by the NC in accordance with democratic procedures. In this respect, the Green Paper presented options relating to the method of nomination on the basis of the number of candidates available for election after nominations by the NC. After a decision had been made on this, there could be further discussion on the procedures for nominating CE candidates. If a package of mainstream proposals could be formulated on the electoral method for the CE election, the Administration would propose amendments to Annex I to the BL and the relevant local legislation to effect the changes.

Action

24. Regarding the method of nomination by the NC, Mr Ronny TONG said that in emphasising that the community should first strive to agree on the number of candidates which the NC should put forth, the Administration was putting the cart before the horse. Mr TONG considered that it was much more important for the community to discuss the democratic procedures for nominating CE candidates by the NC, rather than the number of CE candidates available after nominations by the NC.

25. SCMA responded that the Administration had set out in the Green Paper different views on the democratic procedures for nominating CE candidates. There were views that a certain number of CE candidates should be nominated by the NC for election by universal suffrage after all contenders had the opportunity to introduce their platform to the NC. On the other hand, there were views that setting a nomination threshold would suffice. The number of CE candidates available for election by the public would depend on the level of the nomination threshold. The Administration had set out three types of options on the number of candidates in the Green Paper. After consensus had been reached on this, the public would then have a clearer idea of the scale of the CE election. Thereafter nomination procedures could be discussed and agreed upon. After consensus had been forged, the Administration would present legislative proposals to amend the electoral method for LegCo's consideration.

26. Ms Emily LAU asked whether CE's report to the Central Authorities would include proposals on the democratic procedures for nominating CE candidates and if so, whether the Administration would consult the public on such proposals before submitting the report to the Central Authorities, having regard to the fact that the Green Paper was silent on the procedures for nominating CE candidates.

27. SCMA said that the work of the Administration and the views of the public were interactive. The Administration had set out in the Green Paper various key issues relating to the composition and size of the NC as well as the method of nominating CE candidates. The public was welcomed to express views on the procedure for nominating CE candidates, which would be fully reflected in the report to be submitted to the Standing Committee of the National People's Congress (NPCSC).

28. Mr LEUNG Kwok-hung said that as the CE was returned by a "small-circle" election, he was not responsive to public needs and demands. Mr LEUNG further asked whether the Administration agreed that restrictions on the nomination of CE candidates would contravene the principles of universal and equal suffrage.

29. SCMA disagreed that the election of the CE by the Election Committee (EC) was a "small-circle" election. He pointed out that during the last CE election, Mr Donald TSANG received 80% of the votes of EC members. Likewise,

Action

Mr TSANG received 70% public support as revealed by the opinion polls conducted by various universities. This demonstrated that the EC was broadly representative of the Hong Kong community. As regards the method for nominating candidates, SCMA said that no matter what nomination procedures were eventually adopted, there was bound to be a limit on the number of CE candidates.

Assessment of public views

30. Dr KWOK Ka-ki asked how the Administration would assess public views on the Green Paper, both qualitatively and quantitatively.

31. SCMA responded that the Administration would make reference to the opinion polls conducted by various universities and institutions on universal suffrage in these few months, which had a broad coverage on the views of different sectors and strata of the community. The Administration would also continue to listen to the views of different political parties and organizations on the Green Paper.

32. Dr KWOK further asked how the Administration would interpret the outcome of the opinion polls should they reveal conflicting findings and whether the Administration would put in place a mechanism to gauge public opinion directly.

33. SCMA said that the opinion polls conducted by various independent universities and institutions, which were available on the relevant website, would provide useful reference for the Administration, and their findings would provide corroborative evidence on public sentiments on the various key issues for implementing universal suffrage. At the request of the Chairman, SCMA agreed to provide members with information on the various opinion polls on universal suffrage conducted during June to early September 2007.

(Post-meeting note: The information (provided by the Administration was issued to the Panel vide LC Paper No. CB(2)2715/06-07(01) on 17 September 2007.)

Way forward

34. Ms Emily LAU said that the Green Paper was silent not only on the democratic procedures for the nomination of CE candidates by the NC, but also on how the Administration would come up with its mainstream views after the consultation period and when the CE would submit a report to the Central Authorities on the matter. Ms LAU asked how the Administration would proceed after the close of the consultation period and the time frame for such actions.

35. SCMA said that the consultation exercise was conducted in the hope that

Action

the community could arrive at a consensual view on how and when universal suffrage should be implemented. After the close of public consultation, the Administration would summarise the views received from the community and assess whether differences in opinions had narrowed adequately to provide a basis for taking forward the work to the next phase. CE would submit a report to the NPCSC which would include all the views expressed by different political parties and groups, as well as individuals and organizations from the community as reflected in their submissions and the opinion polls conducted by various institutions. Should consensus be forged, the next step would be for the Administration to propose amendments to Annexes I and II to the BL on the two electoral methods for the scrutiny of LegCo. As regards the timetable for the various activities leading to amendments to the two electoral methods, it would depend on the results of the public consultation and when a consensus on the various key issues relating to the implementation of universal suffrage could be reached in the community.

36. Ms Emily LAU said that she noted from newspaper reports the remarks made by Mr Jasper TSANG that the Administration would come up with its mainstream proposal only after the NPCSC had made clear its stance on universal suffrage some time next year. Ms LAU asked whether this was indeed the case.

37. SCMA responded that the Administration would start preparing the report to the NPCSC as soon as the consultation period ended and it was expected that the report would be completed in months. SCMA added that the Administration would make use of the next five years to resolve the issue of universal suffrage.

38. Mr CHEUNG Man-kwong said that the public response to the Green Paper had been one of resigned indifference as they understood well that the Central Authorities had the ultimate say on the issue of universal suffrage. Should the Administration find that there were strong calls in the community for a faster pace of democratisation in the two elections after the CE had submitted a report to the Central Authorities, Mr CHEUNG asked whether the Administration would be willing to amend its proposals to reflect such public aspirations.

39. SCMA responded that the consultation exercise had demonstrated that the public was concerned with the issue of universal suffrage and had a good understanding of the key issues involved. It was the hope of Hong Kong people that different political parties and groups could reach consensus to take forward the constitutional development in Hong Kong. Pursuant to the Interpretation by the NPCSC of Article 7 of Annex I and Article III of Annex II to the BL on 6 April 2004, it was the responsibility of the Administration to put forth proposals to amend the two electoral methods. The Administration and LegCo should work together for the well being of Hong Kong and it was the hope of the Administration that its proposals could obtain the support of a two-thirds majority of all LegCo Members. The Administration would make its best endeavour to lobby the support of various political parties and groups and the community at

Action

large for its proposals. In the course of such discussions, there might be room for the Administration to fine tune its proposals in the light of the views of various political parties and groups.

40. Dr KWOK Ka-ki asked whether the Administration had consulted the Central Authorities on the Green Paper in the past two months and whether it would do so before putting forth its final package of proposals on the two electoral methods.

41. SCMA responded that there had been regular exchanges between the Administration and the Central Authorities over the issue of the constitutional development in Hong Kong over the past few years. He reiterated that the Central Authorities was awaiting the Hong Kong community to reach consensus on the various key issues relating to universal suffrage and that the Administration would take forward the matter once there was consensus on the issues.

II. Any other business

42. The Chairman reminded members that the next meeting would be held on 10 September 2007 at 9:00 am to receive public views on the Green Paper.

43. There being no other business, the meeting ended at 11:02 am.

Council Business Division 2
Legislative Council Secretariat
13 November 2007