

立法會
Legislative Council

LC Paper No. CB(2)953/07-08
(These minutes have been seen
by the Administration)

Ref : CB2/PL/CA

Panel on Constitutional Affairs

**Minutes of special meeting
held on Tuesday, 23 October 2007, at 5:15 pm
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
 - Hon LEE Cheuk-yan
 - Hon Margaret NG
 - Hon CHEUNG Man-kwong
 - Dr Hon Philip WONG Yu-hong, GBS
 - Hon WONG Yung-kan, SBS, JP
 - Hon Jasper TSANG Yok-sing, GBS, JP
 - Hon Howard YOUNG, SBS, JP
 - Hon LAU Kong-wah, JP
 - Hon LAU Wong-fat, GBM, GBS, JP
 - Hon Emily LAU Wai-hing, JP
 - Hon Abraham SHEK Lai-him, SBS, 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 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
 - Hon KWONG Chi-kin
- Members absent** :
- Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
 - Hon Martin LEE Chu-ming, SC, JP
 - Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP

Hon Bernard CHAN, GBS, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
Hon LEUNG Yiu-chung
Dr Hon YEUNG Sum, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon Daniel LAM Wai-keung, SBS, JP

Public Officers : Item I
attending

The Administration

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

Miss Denise YUE
Secretary for the Civil Service

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

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

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

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

Mrs Eleanor CHOW
Senior Council Secretary (2)4

Mrs Fonny TSANG
Legislative Assistant (2)3

Action

- I. Report on Further Development of the Political Appointment System**
(LC Paper No. CB(2)111/07-08(01) – Administration's letter dated
17 October 2007

Legislative Council Brief on "Implementation of Further Development of
the Political Appointment System"

Report on Further Development of the Political Appointment System

Action

Statement by the Secretary for Constitutional and Mainland Affairs on the Report on Further Development of the Political Appointment System at the Council meeting on 17 October 2007

LC Paper No. CB(2)123/07-08(01) – Background Brief on "Further Development of the Political Appointment System" prepared by the LegCo Secretariat)

Briefing by the Administration

Secretary for Constitutional and Mainland Affairs (SCMA) said that he had already made a statement on the Report on Further Development of the Political Appointment System (the Report) at the Council meeting on 17 October 2007. He would like to highlight the following -

- (a) the proposal for further development of the Political Appointment System (PAS) by creating two additional layers of political appointees, namely Under Secretary (at the rank of Deputy Director of Bureau) and Political Assistant to Director of Bureau, sought to widen the avenue for political participation;
- (b) it was not uncommon for countries adopting a ministerial system, such as the United Kingdom and Canada, to have two to three layers of political appointees; and
- (c) the proposal sought to pave the way for the further democratic development in Hong Kong. By the time universal suffrage was to be implemented to return the Chief Executive (CE) in accordance with the Basic Law, there would be a pool of political talents to assist candidates running for the CE election in electioneering activities, and to form the CE's political team after the election.

Discussion

The Political Appointment System

2. Some members, including Mr CHEUNG Man-kwong, Mr LEUNG Kwok-hung, Ms Emily LAU, Mr Albert HO and Ms Audrey EU, said that the PAS was introduced by the CE who was returned by a "small circle" election. In countries adopting a political appointment system, their leaders were returned by universal suffrage and hence had the mandate to appoint their cabinet members. Given that the CE did not have the mandate of the people, Mr CHEUNG Man-kwong queried the basis for the CE to further expand the system and his political team.

Action

3. SCMA said that although the incumbent CE was not returned by universal suffrage, he was elected by the Election Committee which was broadly representative of the different sectors of the community. In addition, the election was conducted in an open, fair and transparent manner. In the CE election held in March 2007, the CE had received support from over 80% of members of the Election Committee. The result tallied with that of an opinion survey which indicated that over 70% of the people in Hong Kong supported Mr Donald TSANG to be the third term CE. SCMA added that the power and functions of the CE in governing Hong Kong was derived from the Basic Law. As head of the Government of the Hong Kong Special Administrative Region, the CE was empowered to appoint and remove government officials, other than the Principal Officials (POs) who were enquired by the Basic Law to be appointed and removed by the Central People's Government on the recommendation of the CE.

4. SCMA further said that constitutionally, the executive authorities were accountable to the Legislative Council (LegCo) and the people of Hong Kong. Experience had demonstrated that the PAS, introduced since July 2002, had strengthened the accountability of POs to the LegCo and the community at large. The CE and POs appeared regularly before the LegCo to answer questions from Members and also reached out proactively to the community to explain policies to enable a better understanding of the intention, rationale and implications of government policies and decisions. As political work had become increasingly important, creating two additional layers of political appointees would provide stronger support to the existing team of POs to undertake political work to meet the demands of people-based governance. The same spirit of accountability would apply to the two new political layers.

5. Mr WONG Kwok-hing said that apart from the District Councils (DCs) and the LegCo, the political career path for young people should consist of an intermediate council such as the municipal council. SCMA responded that the creation of two additional political layers in the Government and enhancing the functions of DCs would provide a comprehensive career path for political talents.

6. Some members, including Mr Albert HO, Mr Ronny TONG, Ms Emily LAU, Ms Audrey EU, Dr KWOK Ka-ki and Mr LEUNG Kwok-hung, said that the best way to nurture political skills was to go through the election process, and not by means of political appointment. They doubted whether the PAS could achieve the objective of grooming political talents and providing a comprehensive political career path for young people, given that the political appointees had to be like-minded with the CE and shared his governing philosophy. If the Administration was sincere about creating a pool of political talents, then the PAS should allow suitable persons from a variety of backgrounds to join the political team. These members considered that the PAS was not conducive to political party development and democratic development. In their view, the expansion of the PAS would open the door to a "spoils system" for political parties which had close relations with the CE.

Action

7. In response to members, SCMA made the following points -
- (a) it was a common international practice for the head of a government to appoint his cabinet members and to form his political team. It was imperative that the cabinet members would share his governing philosophy and were willing to work with other members of the political tier as a team to deliver effective and efficient governance. The incumbent CE had indicated publicly that he would look for people who were ready to support his election platform, and competent in delivering the pledges and promises in the election platform, as team members;
 - (b) by expanding the PAS, political talents would have the opportunity to pursue a broader political career and to nurture further their political skills in the Government, in addition to the route of participating in the elections of the DCs and LegCo. The Administration's view was that people with political party, academic, professional, business, civil service and other backgrounds could serve in the new political positions; and
 - (c) in the pursuit of a more democratic political system for Hong Kong, further developments in the PAS and the electoral system would complement each other. The PAS would allow sufficient room for the future CE returned by universal suffrage to constitute his political team or to form a governing coalition to help implement his election manifesto.
8. Mr Ronny TONG, Ms Emily LAU and Ms Audrey EU queried whether it was appropriate to use public money, in the range of \$50 million to \$65 million per annum, to groom political talents who were like-minded people with the CE. Mr Ronny TONG pointed out that under the current political environment, there was little chance for pan-democratic candidates to win in a CE election and for pan-democratic politicians to be appointed as political appointees. It was unfair that the grooming of political talents was restricted to people who held certain political beliefs. He suggested that the Administration should withhold the proposal until universal suffrage was implemented to return a CE who had the mandate of the people. He also pointed out that the money spent could be wasted, if a political appointee did not continue with political work after stepping down from office.
9. SCMA responded that every politician had the right to decide his future career after stepping down from office, irrespective of whether he was a political appointee, legislator or DC councillor. The new political positions were not merely created for the incumbent CE. The expansion of the PAS would lay down a three-layer political structure to pave the way for Hong Kong's long term democratic development.

Action

10. SCMA further said that the stance of the opposition camp should be consistent. In the past, the opposition camp had advocated the formation of a ruling coalition and the widening of avenues for political participation. Now that the Administration had taken a proactive step to open more political positions in the Government, the opposition camp suggested that the proposal should be deferred until universal suffrage was implemented. In the Government's view, it would be too late to further develop the PAS by then. He pointed out that it was necessary to groom political talents so as to provide favourable conditions for the implementation of universal suffrage. SCMA added that the Administration was adopting a two-pronged approach in the quest for democratic development. First, the Administration was exploring the models for electing the CE and forming the LegCo by universal suffrage. The CE had already pledged to make best endeavours to resolve the issue of universal suffrage within the current term of office. Second, the Administration were exploring more opportunities for political talents to participate in public affairs, such as by opening up more political positions in the Government and increasing the number of seats in the LegCo and DCs.

11. Mr Albert HO said that a ruling coalition would not be meaningful if its leader was not returned by direct election. Given that senior government officials were currently providing effective support to the POs, he queried the need for the creation of the additional political appointee positions. He also expressed concern whether the Deputy Directors of Bureau, who had yet to polish their skills in politics, were competent to represent the Government in answering questions from LegCo Members and members of the public.

12. SCMA responded that the proposal was not meant to provide a "training school" for political appointees. Those appointed would be expected to take up substantive work such as explaining and defending Government policies and lobbying for support in this regard. The performance of political appointees was subject to the monitoring of the LegCo, the media and members of the public. Like POs, the Deputy Directors of Bureau were expected to shoulder political responsibility for the success or failure of matters falling within their respective portfolios.

13. Ms Emily LAU said that if the Administration wished to pave the way for universal suffrage, it should develop a multi-party system and promote political party development. She pointed out that in the United Kingdom and Canada, a political party which won a majority of seats in parliament in an election could become the ruling party. The leader of the ruling party would form a government and appoint his cabinet members who would in turn make further political appointments. A ruling coalition formed by a CE who was returned by a "small circle" election could only be a laughing stock.

14. SCMA said that each country developed its system of government based on its own needs and characteristics. Hong Kong was still shaping its electoral system and it was important to create a pool of political talents. The further

Action

development of the PAS could complement the progressive development of a more democratic political system. In certain respects, the political system of Hong Kong was similar to that of a presidential system (such as that in the United States) in which the head of the executive government and members of the legislature were returned by different election avenues. In such a presidential system, members of the cabinet were often appointed, and not elected members of the legislature.

15. Some members, including Ms Emily LAU, Ms Audrey EU and Mr CHEUNG Man-kwong, said that it was inappropriate to compare the political system between Hong Kong and the United States, as the latter's President was returned by universal suffrage. SCMA said that Hong Kong had not yet attained universal suffrage, but the Administration hoped that the PAS would pave the way for the eventual implementation of universal suffrage for the CE.

16. Mr Abraham SHEK said that he supported the proposal from the perspective that it would contribute to effective governance of Hong Kong. In his view, the CE had the right to select his team members, irrespective of the pace of democratic development. The principle of "one country, two systems" adopted in Hong Kong was unique; it was not meaningful to draw comparison with the political system of other places in the world.

17. Mr TAM Yiu-chung said that Members belonging to the Democratic Alliance for the Betterment and Progress of Hong Kong supported the proposal. Irrespective of whether a CE was elected by the Election Committee or by universal suffrage, he needed team members to deliver his election platform. Given that the civil servants were not required to take up political responsibility, the PAS could be expanded with a view to further improving governance. Hong Kong also needed to groom more political talents to take forward constitutional development.

18. Mr Howard YOUNG said that Members belonging to the Liberal Party previously had reservation on the proposal. However, they also recognised the difficulty faced by the CE in governing Hong Kong if he did not have his own team. While the Liberal Party supported the proposal in principle, it was not convinced that the creation of the new political positions could not be offset by the deletion of some civil service posts. The Liberty Party was also concerned whether the political appointees would be willing to become Members of LegCo or DCs after stepping down from office, given that the remuneration package of the former was far more attractive than those of the latter.

19. SCMA explained that given the substantive initiatives proposed in the CE's Policy Address 2007-2008, the workload in the political stream and the civil service stream was expected to become increasingly heavy. Creating two additional layers of political appointees would provide stronger support to the current thin layer of POs to undertake political work, while the civil servants

Action

would focus on conducting research and analysis on policy options, making policy proposals for POs to consider, assisting POs in policy explanation, policy implementation, etc. The further development of the PAS would not reduce the responsibilities and workload of civil servants. SCMA further said that it was not uncommon in other countries for remuneration packages of political appointees to be different from those for parliamentary members. He was aware that the remuneration package of LegCo Members was presently under review.

Remuneration, selection and appointment of political appointees

20. Members noted that the proposal would entail the creation of 24 additional political positions, comprising 11 positions at the rank of Deputy Director of Bureau and 13 at the rank of Political Assistant. An Appointment Committee would be set up to consider nominations and appointments of potential candidates to fill the new political positions and to assess and consider the suitability of these candidates for the positions. The Appointment Committee would be chaired by the CE and comprise the Secretaries of Department, the relevant Director(s) of Bureau and the Director of the CE's Office. All Deputy Directors of Bureau and Political Assistants should be appointed and removed by the CE on the advice of the Appointment Committee.

21. Ms Audrey EU said that according to paragraph 7.03 of the Report, the political appointees should be those who were patriotic and loved Hong Kong. She asked how the two criteria could be assessed.

22. SCMA explained that a patriot should support the development of China and a person who loved Hong Kong should support the development of Hong Kong in accordance with the principle of "one country, two systems" and the Basic Law.

23. Mr CHEUNG Man-kwong asked why no deputies were proposed for the Secretaries of Department. SCMA said that the Administration had considered the issue. Since the re-organisation of the Government Secretariat in July 2007, there were a total of 12 Directors of Bureau. They were required to report to either the Chief Secretary for Administration or the Financial Secretary. The two Secretaries of Department could delegate their duties to a suitable Director of Bureau in their temporary absence and hence for now did not require a deputy.

24. Mr TAM Yiu-chung considered it preferable to have a Deputy Director of Bureau to deputise the Director of Bureau concerned during the latter's temporary absence, than to have a Director of Bureau doubling sideways the duties of another Director of Bureau as in the existing arrangement. He was, however, concerned about the difficulty in recruiting high calibre persons to fill these demanding positions. He asked about the timeframe of having these positions filled.

Action

25. SCMA responded that the Administration was prudent with the use of public money and considered it important that only persons with the right calibre should be appointed. The Administration expected that a person filling the post of Deputy Director of Bureau should have considerable standing in their respective fields, have some experience in public service and in dealing with the media, and possess the necessary competencies and communications skills required for handling Government work. If necessary, these positions would be filled in phases. Hopefully, the recruitment process could be completed by mid-2008 if the proposal of creating the positions was approved by the Finance Committee at the end of 2007.

26. Given that the Administration did not intend to set any hard and fast rules as to what constituted the "calibre" required (paragraph 7.15 of the Report refers), Ms Emily LAU asked how the criteria such as "considerable standing in their respective fields", "necessary competencies and communications skills" and "relevant network and connection with the respective fields" could be objectively assessed when selecting the political appointees. She also asked whether the candidates for political positions would be identified by open recruitment.

27. SCMA said that the Government's view was that people with political party, academic, professional, business, civil service and other backgrounds could be appointed to the new political positions, so as to enrich and broaden the opportunities for political participation. Since one of the fundamental principles for selecting political appointees was that they should subscribe to the CE's manifesto and should assume political responsibility for the decision of the political team collectively, open recruitment would not be appropriate. Under the proposed arrangement, POs could nominate suitable candidates for the consideration of the Appointment Committee. Members of political parties who supported the election platform of the CE could be one source of potential candidates. On the criterion of "network and connection with respective fields", SCMA quoted the examples of Mr Frederick MA, Secretary for Commerce and Economic Development, and Ms Sarah LIAO, former Secretary for the Environment, Transport and Works, and said that both of them had considerable network and standing in the financial and environment fields respectively, prior to joining the Government as POs.

28. Ms Emily LAU asked about the remuneration package for the two layers of political appointees. SCMA explained that the remuneration for Deputy Directors of Bureau would be pitched within a range equivalent to 65% to 75% of the remuneration package approved by the LegCo Finance Committee in 2002 for a Director of Bureau; and the remuneration for Political Assistants to Directors of Bureau would be pitched within a range equivalent to 35% to 55% of the remuneration package approved by the LegCo Finance Committee in 2002 for a Director of Bureau. SCMA clarified that the remuneration for political appointees had included the encashed benefits. The remuneration package of a Deputy Director of Bureau was not higher than that of a Permanent Secretary and was broadly equivalent to that of a D4 to D6 civil servant.

Action

Other issues

29. Mr WONG Kwok-hing said that members of the public found the names of the policy bureaux confusing, as they could not distinguish Government bureaux from public-funded authorities such as the Tourism Board and the Hospital Authority. He urged the Administration to step up efforts to promote the public's understanding of the functions of policy bureaux. Mr WONG also found the titles "Secretary" (Director of Bureau), "Permanent Secretary" and "Deputy Secretary" (Deputy Director of Bureau) confusing.

30. SCMA said that the titles of policy bureaux had been considered in the context of the re-organisation of policy bureaux of the Government Secretariat in May 2007. The Administration considered that the titles were sufficiently clear. He believed that members of the public could distinguish a policy bureau from a public-funded organisation. SCMA further said that "Deputy Director of Bureau" was the English title of the rank. The English title of the positions would be "Under Secretary". The two titles were the same in Chinese.

31. Mr LEUNG Kwok-hung said that in some western countries, an opposition party would receive public funding to finance its operation. The Administration should consider adopting this approach and enacting a political party law as means to promote political party development.

32. SCMA said that the Administration held the view that introducing a political party law at this point in time would hinder the development of political parties. Some political parties also subscribed to that view. As one of the means of facilitating political party development, the Administration had introduced the financial assistance scheme (\$10/vote) for both candidates of the LegCo and DC elections. SCMA further said that except for one political party which had over 10 000 members, all the other political parties in Hong Kong only had a few hundred members. It was questionable whether the community would be prepared to support using public money to finance political party operations.

33. In response to Ms Emily LAU's enquiry on the way forward, SCMA said that the Administration would seek the endorsement and approval of the Establishment Subcommittee and the Finance Committee in November and December 2007 respectively for the creation of the proposed positions of Deputy Directors of Bureau and Political Assistants.

34. The meeting ended at 7:00 pm.