

立法會
Legislative Council

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Panel on Constitutional Affairs

Special meeting on 23 October 2007

Background Brief on Further Development of the Political Appointment System

Purpose

This paper gives an account of the past discussion of Members on the Administration's proposal relating to further development of the political appointment system and related issues.

Background

Accountability System for Principal Officials

2. In his Policy Address delivered in October 2000, Mr TUNG Chee-hwa, the former Chief Executive (CE), undertook to review how the accountability of principal officials (POs) for their respective policy portfolios could be enhanced. In the Policy Address delivered in 2001, he outlined the Government's initial ideas to introduce a new system of appointing POs applicable to the top three Secretaries and most Directors of Bureau. On 17 April 2002, in his address to the Legislative Council (LegCo), he presented the framework of the new accountability system for POs and the details relating to its implementation.

3. The Accountability System for POs was implemented on 1 July 2002. A total of 14 POs, i.e. three Secretaries of Department and 11 Directors of Bureau, were appointed on contract. They were not civil servants and their contract did not exceed the term of the CE who nominated them for appointment. They were accountable to the CE for the success or failure of matters falling within their respective portfolios.

4. Following a re-organization of the policy bureaux of the Government Secretariat with effect from 1 July 2007, the number of policy bureaux has increased from 11 to 12, each headed by a Director of Bureau. There are a total of 15 POs, i.e. three Secretaries of Department and 12 Directors of Bureau.

Further development of the political appointment system

5. During his election campaign in 2005, Mr Donald TSANG, the Chief Executive (CE), said that to meet public expectations for constitutional development to move forward, he would consider how to improve the political structure and enhance public participation in political affairs, e.g. by extending the opportunities for people with political party, academic, professional, business, civil service and other backgrounds to serve as POs and political appointees.

6. Hon SIN Chung-kai raised an oral question at the Council meeting on 6 July 2005 to seek further information on the CE's new idea of recruiting people with political aspirations to serve as assistants to Directors of Bureau. The Administration responded that the view of the CE was to develop a political career path for publicly spirited individuals, with a view to grooming talents with wide ranging experience in politics. The political career path envisaged might cover various stages. Initially, those with political aspirations would be given the opportunity to assume Government positions at the middle ranking level, for example, as Assistants to Directors of Bureau. These individuals might be drawn from various sectors, including the political and business sectors as well as the civil service. At a latter stage, after working for the Government for a certain period of time to gain some experience, they might stand for LegCo election. In so doing, they could benefit from the electioneering experience and broaden their political skills as LegCo Members. Eventually, they might return to the Government to join the political tier of the Government, for example, by filling the positions of Directors of Bureau. In the longer term, these arrangements would help to extend the opportunities for political participation and widen the pool of political talents.

7. In his Policy Address delivered in October 2005, the CE announced that the public would be consulted on the proposal to create within the Government a small number of positions dedicated to political affairs. Their main duty would be to support the CE and POs in their political work.

Consultation Document on Further Development of the Political Appointment System

8. The Administration issued the Consultation Document on Further Development of the Political Appointment System (the Consultation Document) on 26 July 2006 for a four-month public consultation which ended on 30 November 2006. The Administration proposed that the following new positions should be created to strengthen political support to Directors of Bureau -

- (a) Deputy Directors of Bureau - who were subordinate to Directors of Bureau and would work under the latter's direction; and
- (b) Assistants to Directors of Bureau - who would report to Directors of Bureau through the Deputy Directors of Bureau.

In principle, each Director of Bureau should be assisted by one Deputy Director of Bureau and one Assistant to Director of Bureau, subject to the availability of suitable candidates and funding. Chapter 6 : "A Summary of Recommendations" of the Consultation Document is in **Appendix I**.

9. The Panel on Constitutional Affairs (the Panel) held an informal meeting on 26 July 2007 and a special meeting on 31 July 2006 for members to raise questions on the Consultation Document. The subject matter was also raised at other meetings of the Panel. The main issues discussed are summarized below.

Proposed creation of new political positions

Justifications

10. The Administration explained that the main reasons for further development of the political appointment system by creating new positions in the political tier at different levels were as follows -

- (a) POs needed additional support to meet the demands of people-based governance;
- (b) additional political appointments would be conducive to maintaining the political neutrality of the civil service; and
- (c) political positions at different levels of the Government could provide a more comprehensive career path for political talents to pursue.

The civil service under the political appointment system

11. A major concern of some members was how the proposal would impact on the delineation of role and responsibilities between the political layer and the civil service and the political neutrality of civil servants. The Administration advised that -

- (a) since the creation of the Accountability System for POs in 2002, civil servants had assisted POs in attending meetings of LegCo to explain Government policies. The concept of a politically neutral civil service did not mean that civil servants should not engage in work with political content. The test was the nature of political work. Senior civil servants, in particular, were expected to assist POs in certain political work, such as explaining policies decided by the Government to political parties and the media, and helping to secure the support of the community and LegCo on these policies. However, they should refrain from taking part in election politics and other electioneering activities;

- (b) after the creation of positions of Deputy Directors and Assistants to Directors of Bureau, civil servants should continue to report direct, and enjoy direct access, to POs through their Permanent Secretaries;
- (c) the major concerns initially expressed by civil servants on the proposal were as follows. First, there should be clear delineation of the role and responsibilities between the political tier and the civil service. Second, civil service posts should not be reduced to offset for the creation of the additional political appointee positions. Third, the existing system of appointment, promotion and discipline for the civil service should remain unchanged; and
- (d) the Administration would clearly spell out the role and responsibilities between the political tier and the civil service in the finalized package after the consultation exercise.

Prevention of conflict of interest

12. Given that the new political appointees were appointed by the CE on the recommendation of Directors of Bureau, some members expressed concern about the measures to guard against conflict of interest of political appointees during office and after stepping down from office.

13. The Administration explained that the existing Code for Principal Officials under the Accountability System would, with necessary modifications, apply to the political appointees of the two new layers. Rules similar to those applicable to POs would be formulated to forestall the risk of real or perceived conflict of interest. For example, the requirements for POs to declare their investments and interests to the CE and to make available a set of declarations to LegCo and the public, and for POs to seek the advice of the Advisory Committee on Post-Office Employment for Principal Official under the Accountability System (the Advisory Committee) on his plan to take up employment within one year after stepping down from office, would also be applicable to the new positions of political appointees.

14. Some members were skeptical about the effectiveness of the mechanism as the advice of the Advisory Committee was not binding. They expressed concern that it was possible for a political appointee to formulate Government policies which were favourable to a consortium with which he planned to take up employment after stepping down from office.

15. The Administration explained that it would consider how the existing system could be improved. While POs were subject to the 12-month sanitization period, there was no intention to impose an absolute ban to prohibit them from returning to their original profession or business within the 12 months after stepping down from office. Moreover, any policies formulated by the Government while the POs were in office would be subject to LegCo scrutiny and public monitoring.

Other concerns

16. The Administration had responded to or clarified other concerns raised by members on the proposal -

- (a) whether the proposal would result in better coordination of the formulation of policies, improved relationship between the Executive and the Legislature, better governance, and effective use of resources;
- (b) whether the proposal would be conducive to the development of political parties and democratic development which was predicated on a multi-party system (where members of major political parties/groups returned in direct elections should become members of the governing team);
- (c) whether the proposal could achieve the purpose of grooming political talents as the range of political work proposed to be carried out by the political appointees required them to be highly competent and to have substantial experience in political work; and
- (d) whether objective criteria should be drawn up for appointing the new political positions, apart from the requirement that the appointees should be a group of like-minded people with the CE.

For details, members may wish to refer to the minutes of the Panel's meetings on 26 and 31 July 2006 (**Appendices II and III**).

Cost and implementation

17. The Panel noted the advice of the Administration that -

- (a) the cost for implementing the proposal was some \$50 to \$60 million per annum, as against the annual government budget of \$200 billion; and
- (b) the implementation of the proposal would not take place before the third term CE assumed office. The actual timing and pace of implementation would be subject to, among others, the availability of resources and individuals of the right calibre to fill the new positions.

Other relevant issues

Political appointments in the CE's Office

18. The Administration proposed in the Consultation Document that the opportunity should be taken to put on par the political support for the CE. The CE was supported by a Senior Special Assistant and a Special Assistant, both drawn from

outside the civil service. It was considered that these positions should come under the political stream and be subject to the same appointment, remuneration and other arrangements as Assistants to Directors of Bureau. Given that the position of Director of the Chief Executive's Office (DCEO) was a political appointment, the opportunity would also be taken to put his appointment, remuneration and other arrangements on par with other Directors of Bureau.

19. On 3 May 2007, the CE announced the plan to re-organize the policy bureaux of the Government Secretariat with effect from 1 July 2007. The Administration proposed to take the opportunity to align the terms of employment of DCEO with those of a Director of Bureau. The Administration explained that as DCEO was a non-civil service position created in 2002 under the Accountability System for POs, it was reasonable and logical that his terms of employment should be identical to those of Directors of Bureau. On 22 May 2007, the Establishment Subcommittee endorsed, inter alia, the alignment of the terms of employment of DCEO with those of a Director of Bureau.

Accountability System for POs

20. In considering the proposed re-organization of the policy bureaux of the Government Secretariat in May 2007, some Members considered that the Administration should review the Accountability System for POs implemented in 2002. They also requested the Administration to review the position of the Secretary for the Civil Service (SCS) under the Accountability System, e.g. whether the "no revolving door" requirement should apply to this position.

21. The Consultation Document recommended that the person filling the SCS position should continue to be drawn from serving civil servants and not be obligated to sever his ties with the civil service before taking up the position. He should continue to have the discretion of leaving the civil service during his term as the SCS, or to revert to the civil service immediately upon termination or completion of his term of appointment, if he had not yet reached the retirement age specified for civil servants.

22. The Administration advised that it would analyze the views received on the Consultation Document and announce its decision on the way forward in the latter half of 2007. The Administration would address any issues relating to the Accountability System, including the position of the SCS, in the context of this consultation exercise.

Nature of LegCo membership

23. When the Finance Committee discussed the proposal to increase the annual accountable allowance for Operating Expenses Reimbursement for Members at its meeting on 3 November 2006, the nature of LegCo membership was raised. According to the Director of Administration (D of A), the Independent Commission

on Remuneration for Members of the Executive Council and the Legislature of the Hong Kong Special Administrative Region (the Independent Commission) had recommended that the review on whether LegCo membership should be recognized as a job vs public service should be set aside for the comprehensive review for the remuneration package for the fourth LegCo (2008-2012).

24. At the Panel meeting on 20 November 2006, Hon Emily LAU suggested that as the nature of LegCo membership was a policy issue, it should not be decided by the Independent Commission. She was of the view that the issue should fall under the policy purview of the Constitutional Affairs Bureau (CAB) and should be followed up by the Panel.

25. Secretary for Constitutional Affairs (SCA) advised that the D of A had discussed the relevant issues with the LegCo Subcommittee on Members' Remuneration and Operating Expenses Reimbursement chaired by Prof Hon Patrick LAU. The Subcommittee would be the appropriate forum for Members to discuss the issue raised.

26. Members noted that the Independent Commission was of the view that the outcome of the Consultation Document would have a bearing on whether there was a case to adjust the established view that LegCo membership was a form of public service rather than a job. In response to the request of members, SCA agreed that the Administration would take into account the question of the nature of LegCo membership when considering the proposal on further development of the political appointment system, and liaise with the relevant bureau/office within the Administration in this respect as and when necessary.

Relevant Papers

27. A list of the relevant papers which are available on LegCo website is in **Appendix IV**.

CHAPTER 6: Summary of Recommendations

6.01 We welcome views from the public on the Government proposals set out in this document relating to the further development of the Political Appointment System. These proposals are summarised below.

- (a) New positions dedicated to political work, namely Deputy Directors of Bureau and Assistants to Directors of Bureau, should be created with the aim of strengthening support for Principal Officials in carrying out political work. In principle, each Director of Bureau should be assisted by one Deputy Director of Bureau and one Assistant to Director of Bureau. (Paragraph 3.02)
- (b) The Deputy Directors of Bureau and Assistants to Directors of Bureau should not be civil servants. They should not be subject to the civil service rule of political neutrality. (Paragraph 3.03)
- (c) Potential candidates for the new positions should be drawn from within or outside the civil service. A civil servant, if offered the position of Deputy Director of Bureau or Assistant to Director of Bureau, should resign or retire from the civil service before taking up the

political appointment. (Paragraph 3.04)

- (d) In line with the arrangement for Principal Officials, individuals with political party background can be considered for appointment to the new positions. Apart from individuals with political party background, those with other backgrounds such as academic, professional, business and civil service can also be considered. (Paragraphs 1.20 and 3.05)
- (e) The Deputy Directors of Bureau should be appointed and removed by the Chief Executive, while the Assistant to Director of Bureau by the Directors of Bureau. Their term of appointment should not exceed that of the Chief Executive or Directors of Bureau who appoint them. (Paragraph 3.10)
- (f) The Deputy Directors of Bureau should be responsible principally for assisting Principal Officials in undertaking the full range of political work and deputising for Principal Officials during the latter's temporary absence. They should be subordinates of Directors of Bureau and work under the latter's direction. The Assistants to Directors of Bureau should report to the Directors of Bureau through the Deputy Directors of Bureau. They should mainly assist their Directors of Bureau and Deputy Directors of Bureau in carrying out the more routine political work. Their specific duties

are set out in paragraphs 3.07 to 3.08.

- (g) For the proposed positions of Deputy Director of Bureau, the remuneration should be pitched within a range equivalent to 65% to 75% of the remuneration package approved by the Finance Committee in 2002 for a Director of Bureau to cater for candidates with different skills and experience. This is broadly equivalent to the remuneration of a D4 to D6 civil servant on agreement terms with all allowances encashed. (Paragraph 3.11)
- (h) For Assistants to Directors of Bureau, the remuneration should be pitched within a range equivalent to 35% to 50% of the remuneration package approved by the Finance Committee in 2002 for a Director of Bureau to cater for candidates with different skills and experience. This is broadly equivalent to the remuneration of a senior professional to D2 civil servant on agreement terms with all allowances encashed. (Paragraph 3.12)
- (i) In addition to cash remuneration, the Deputy Directors of Bureau and Assistants to Directors of Bureau should also be eligible for annual leave of 22 days per annum (subject to a maximum accumulation limit of 22 days), medical and dental benefits on the same basis as those provided to civil servants, and MPF contribution by the Government. (Paragraph 3.13)

- (j) The Deputy Directors of Bureau should be accountable to the Chief Executive through their respective Principal Officials. They should shoulder political responsibility for the success or failure of matters falling within their respective portfolios. (Paragraph 3.14)
- (k) The existing Code for Principal Officials under the Accountability System should, with any necessary modifications, apply to the performance and behaviour of Deputy Directors of Bureau and Assistants to Directors of Bureau. Specifically they should be subject to certain requirements similar to those applicable to Principal Officials on conduct and behaviour, declaration of interests, disclosure of official information, and acceptance of employment after leaving office. (Paragraphs 3.15 to 3.16)
- (l) The new appointees should be subject to the relevant local legislation that applies to prescribed public officers, including the Prevention of Bribery Ordinance (Cap. 201) and the Official Secrets Ordinance (Cap. 521). (Paragraph 3.17)
- (m) The positions of Senior Special Assistant and Special Assistant in the Chief Executive's Office should come under the political stream and be subject to same appointment, remuneration and other arrangements as Assistants to Directors of Bureau. The appointment, remuneration and other arrangements of Director of the

Chief Executive's Office will also be put on par with that of Directors of Bureau. (Paragraph 3.18)

- (n) The existing Administrative Assistant posts to Directors of Bureau should continue to come under the civil service stream, and the post holders should continue to be required to adhere to the principle of political neutrality. These posts should only be filled by civil servants on posting. (Paragraph 3.19)
- (o) The existing positions of Press Secretaries to Directors of Bureau should continue to be filled by civil servants on posting or by recruitment from outside by direct recruitment. (Paragraph 3.19)
- (p) The additional positions to be filled by politically appointed officials should not be created at the expense of the existing civil service establishment. The current Permanent Secretary structure and positions should be maintained. (Paragraph 2.05(c))
- (q) With the further development of the Political Appointment System, civil servants should continue to report direct, and enjoy direct access, to the Principal Officials through their Permanent Secretaries. Deputy Directors and Assistants to Directors of Bureau should have no direct line of command vis-à-vis Permanent Secretaries who, for the purpose of organizational structure and performance appraisal, should continue to

report to Principal Officials. (Paragraph 4.13)

- (r) The well-established system of appointment, promotion and discipline within the civil service should be preserved and should not be affected by change in political leadership in the Government or come under the influence of the political tier⁷. (Paragraph 4.21)

- (s) The person filling the SCS position should continue to be drawn from the body of serving civil servants and not be obligated to sever his ties with the civil service before taking up the position. He should continue to have the discretion of leaving the civil service during his term as the SCS or to revert to the civil service immediately upon termination or completion of his term of appointment if he has not yet reached the retirement age specified for civil servants. He should refrain from taking part in election politics and other electioneering activities during his term of appointment as the SCS. (Paragraphs 4.23 to 4.25)

6.02 Please send us your views and comments by mail, facsimile or e-mail on or before 30 November 2006:

⁷ As Principal Officials are the supervisors of Permanent Secretaries and those civil servants in their private offices, e.g. Administrative Assistant, Press Secretary, Personal Assistant and Driver, they will be consulted over the posting plans of these civil servants.

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6.03 Views and comments received may be published in their entirety for public information. Please state your request clearly in your submission if you prefer your identity or views to remain confidential. All responses will be treated as public information unless otherwise specified.

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Legislative Council

LC Paper No. CB(2)242/06-07
(These minutes have been seen
by the Administration)

Ref : CB2/PL/CA

Panel on Constitutional Affairs

**Minutes of informal meeting
held on Wednesday, 26 July 2006, at 11:00 am
in the Chamber of the Legislative Council Building**

- Members present** :
- Dr Hon LUI Ming-wah, SBS, JP (Chairman)
 - 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 CHEUNG Man-kwong
 - Hon LAU Kong-wah, JP
 - Hon Emily LAU Wai-hing, JP
 - Hon Abraham SHEK Lai-him, JP
 - Hon LEE Wing-tat
 - Hon LEUNG Kwok-hung
 - Hon WONG Ting-kwong, BBS
 - Hon Patrick LAU Sau-shing, SBS, JP
- Members absent** :
- Hon Jasper TSANG Yok-sing, GBS, JP (Deputy Chairman)
 - Hon James TIEN Pei-chun, GBS, JP
 - Hon Albert HO Chun-yan
 - Dr Hon David LI Kwok-po, GBS, JP
 - Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
 - Hon Bernard CHAN, GBS, JP
 - Hon CHAN Kam-lam, SBS, JP
 - Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
 - Hon LEUNG Yiu-chung
 - Dr Hon Philip WONG Yu-hong, GBS
 - Hon WONG Yung-kan, JP
 - Hon Howard YOUNG, SBS, JP
 - Dr Hon YEUNG Sum
 - Hon LAU Chin-shek, JP
 - Hon LAU Wong-fat, GBM, GBS, JP
 - Hon Miriam LAU Kin-ye, GBS, JP

Hon CHOY So-yuk, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon TAM Yiu-chung, GBS, JP
Hon LI Fung-ying, BBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon Daniel LAM Wai-keung, SBS, JP
Hon MA Lik, GBS, JP
Hon Alan LEONG Kah-kit, SC
Dr Hon KWOK Ka-ki
Dr Hon Fernando CHEUNG Chiu-hung
Hon CHEUNG Hok-ming, SBS, JP
Hon Ronny TONG Ka-wah, SC
Hon CHIM Pui-chung
Hon KWONG Chi-kin
Hon TAM Heung-man

Public Officers : Item I
attending

Mr Stephen LAM Sui-lung
Secretary for Constitutional Affairs

Mr Arthur HO Kin-wah
Acting Permanent Secretary for Constitutional Affairs

Miss May CHAN Wing-shiu
Principal Assistant Secretary for Constitutional Affairs

Miss Denise YUE Chung-yee
Secretary for the Civil Service

Mr Andrew WONG Ho-yuen
Permanent Secretary for the Civil Service

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

Staff in : Mrs Eleanor CHOW
attendance Senior Council Secretary (2)4

Mrs Fanny TSANG
Legislative Assistant (2)3

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I. Further Development of the Political Appointment System
(Consultation Document on "Further Development of the Political Appointment System")

LC Paper No. CB(2)2858/05-06(01) -- Paper provided by the Administration on "Further Development of the Political Appointment System")

As a quorum could not be formed within 15 minutes of the time appointed for the meeting, members agreed that an informal meeting should be held for the Administration to brief members on the Consultation Document on "Further Development of the Political Appointment System" (the Consultation Document).

2. In response to members' comments about the short notice for this meeting which had resulted in the lack of a quorum, SCA explained that the Chief Secretary for the Administration and the House Committee had previously agreed that the Administration should brief the relevant Panel on major policy proposals prior to its announcement to the media. Following the approval of the Executive Council on the proposals in the Consultation Document on 25 July 2006, the Administration decided that a press conference should be held the following day, i.e. in the afternoon on 26 July 2006 to announce the publication of the Consultation Document. Under the circumstances, the Administration proposed to brief the Panel on the Consultation Document in the morning on 26 July 2006. The Chairman explained that his decision to convene the meeting was to tie in with the work of the Administration and was made in accordance with Rule 77(11).

3 Some members expressed dissatisfaction about the meeting arrangement and their views were summarised below --

- (a) it was unreasonable and disrespect of the Administration to request the Panel to convene this meeting as less than three days' notice was given for the meeting, contrary to the requirement under Rule 77(11) of the Rules of Procedure of the Legislative Council (LegCo);
- (b) although Rule 77(11) provided that the Chairman had the discretion to give shorter notice, the Chairman should exercise his discretion with good reasons only;
- (c) while members supported the principle for the Administration to brief the relevant Panels on major policy proposals prior to its announcement to the media, there was no urgency for holding the meeting on 26 July 2006 as the consultation of the Consultation Document would last for four months;

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- (d) the Administration should adjust the timing of its press conference to allow sufficient notice of the meeting be given to members in accordance with Rule 77(11);
- (e) this incident would set a bad precedent for other bureaux, and the failure of the Panel to meet the quorum requirement would tarnish LegCo's image;
- (f) given that many Members were currently out of town and would return to Hong Kong before the Council meeting on 2 August 2006, a meeting to brief the Panel on the Consultation Document should be scheduled sometime before or after that Council meeting; and
- (g) the notice requirement under Rule 77(11) should be complied with unless special considerations justified departure. Any request for holding a meeting with less than three days' notice should be made by the Administration in writing and with justifications. Such a request should be circulated to the Panel for reference. The meeting should not be held unless a quorum could be formed.

4. SCA reiterated that it was the intention of the Administration to brief the Panel on the Consultation Document before announcing its details at the press conference. The Panel could consider holding further meetings to discuss the Consultation Document, if necessary.

Briefing and discussion

5. SCA briefed members on the proposal put forth in the Consultation Document relating to the further development of the Political Appointment System. The proposal sought to strengthen support for Principal Officials (POs) in undertaking political work by creating two additional layers within the Government, namely Deputy Directors of Bureau and Assistants to Directors of Bureau. Public Consultation would end on 30 November 2006.

6. Mr LAU Kong-wah said that under the proposal, there were seven layers of officials, namely, POs, Deputy Directors of Bureau, Assistants to Directors of Bureau, Permanent Secretaries, Deputy Secretaries, Principal Assistant Secretaries and Assistant Secretaries. He expressed concern whether this would better coordinate the formulation of policies. Mr LAU added that a main objective of the proposal was that the new political appointees would help in carrying out political work. It was his observation that at present, intensive lobbying would be carried out by a large number of civil servants in the Chamber at the last minute, e.g. when an important bill was considered by the Council. Mr LAU considered that the present problem was that the Administration only consulted Members on policy proposals at the very last stage, e.g. after the

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publication of this Consultation Document, instead of at an early stage, i.e. before the policy proposals were drawn up. He asked whether the situation would improve after the creation of the two new political layers. Mr LAU was sceptical whether the proposal to further develop the Political Appointment System would result in improved relationship between the Executive and the Legislature, better governance and effective use of resources.

7. SCA said that under the proposal, Permanent Secretaries and senior civil servants would be responsible for conducting researches and analyses on policy options and making policy proposals, while political appointees provided political input to POs in making policy decisions. This would facilitate the process of policy formulation. The Administration had listened to public views before formulating policies in the past few years. SCA further said that there was a practical need for the Administration to deploy civil servants to monitor the proceedings when an important bill was debated by the Council. SCA added that although the cost for implementing the proposal, i.e. some \$50 to \$60 million per annum, was not a very significant amount against the annual government budget of \$200 billion, the Administration would be cautious in the use of public funds.

8. Ms Emily LAU said that the proposal was not conducive to democratic development in Hong Kong. Democratic development was predicated on a multi-party system and the development of political parties. Political parties should aim at becoming a ruling party someday by fielding members to stand for elections of the District Councils, LegCo and the Chief Executive. Although the Consultation Document stated that people with different backgrounds could be considered for appointment to fill these positions, given CE's earlier remark about "different affinities" with political parties, she considered that the new political appointee positions were only created for pro-government political parties. She further pointed out that given CE's remark, it was difficult for the civil service to maintain political neutrality.

9. Secretary for the Civil Service (SCS) responded that traditionally, senior civil servants were involved in work with political content such as explaining and defending Government policies and decisions, and lobbying for support in this regard. After the implementation of the Political Appointment System in 2002, POs had taken up such political work, with senior civil servants playing a supporting role. However, civil servants must not engage in certain political work such as electioneering and fund raising activities for a political party. Additional political appointments were now proposed to provide further support to the political team to take on political work with the support of civil servants. SCS further said that compared with some overseas jurisdictions where civil servants were not required to explain and lobby support for Government policies and decisions, the situation in Hong Kong was unique for historical reasons. However, she did not feel that the role of civil servants in this regard was in conflict with the principle of upholding neutrality for the civil service. SCS

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added that senior civil servants had and would continue to lobby support from all Members, irrespective of whether they were independent Members or Members belonging to this or that political party.

10. SCA clarified that the remark of CE referred to by Ms Emily LAU did not originate from CE, but the media. In his Policy Address delivered in October 2005, CE had made clear that the Administration would continue to open up the political system to create more room for participation in public affairs, thereby enable public spirited individuals to come forth and serve the community. By extending the system of political appointments, people from different backgrounds would have the opportunity to pursue a broader political career. Apart from the opportunities to stand for elections in the District Councils and LegCo, members of political parties and other public spirited individuals could also join the Government to acquire practical knowledge of government operations and nurture their political skills. These political appointees should share the CE's vision on policy direction in order to deliver effective governance.

11. Ms Margaret NG asked how the proposal of furthering the Political Appointment System would promote constitutional development towards universal suffrage. She also asked whether there were any objective criteria for appointing the political appointees, apart from the requirement that they should be like-minded with CE. She further asked about the remuneration package for political appointees and the line of command between the political tier and the civil service.

12. SCA said that the possible models for selecting CE by universal suffrage would be discussed by the Commission on Strategic Development on 28 July 2006. Irrespective of whether CE was to be elected by the Election Committee or by universal suffrage in future, the proposal provided CE with the opportunity to form his own governing team with individuals who shared his vision and mission, and who were prepared to promote the policy and political agenda of the Government under his leadership. Deputy Directors of Bureau would be appointed and removed by CE on the recommendation of the Directors of Bureau, while Assistants to Directors of Bureau would be appointed and removed by Directors of Bureau with the consent of CE. Given that the term of office of CE was five years, the term of appointment of political appointees would not exceed that of CE or POs who appointed them. Although the system of government in Hong Kong was akin to the presidential system in the United States, the Administration did not intend to change thousands of appointments whenever there was a change of government. Widespread staffing changes following changes in political leadership would have an impact on the continuity of governance. SCA added that the further development of the Political Appointment System would not undermine the fundamental importance of the civil service. In order to enable the civil service to perform its constitutional role to support the serving CE and his Government, the two features of the civil service, namely permanency and political neutrality, would be maintained.

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13. SCA further said that political appointees could come from political party, academic, professional, business, civil service and other backgrounds. The existing Code for Principal Officials under the Accountability System would, with necessary modifications, apply to the political appointees of the two new layers. To cater for candidates with different skills and experience, the remuneration for Deputy Directors of Bureau and Assistants to Directors of Bureau were proposed to be pitched, respectively, within a range equivalent to 65% to 75% and 35% to 50% of the remuneration package approved by the Finance Committee in 2002 for a Director of Bureau.

14. SCS supplemented that one of the objectives of the proposal was to select the most suitable persons to take up political positions. On the operational level, the political tier and the civil service should work as a team to provide quality services to the community and to enhance governance. The line of command between the political tier and the civil service would be clearly set out to avoid confusions and to avoid compromising efficient governance. After the creation of Deputy Directors and Assistants to Directors of Bureau, civil servants should continue to report direct, and enjoy direct access, to POs through their Permanent Secretaries. In other words, the Deputy Directors and Assistants to Directors of Bureau should have no direct line of command over civil servants, including Permanent Secretaries, and Permanent Secretaries would, for the purpose of organisation structure and performance appraisal, continue to report to POs.

15. Mr CHEUNG Man-kwong said that in a democratic society, a head of government returned by universal suffrage would have the mandate to appoint his political team. He would not object to such a political appointment system. However, a political appointment system introduced by a head of government who was returned in a small circle election and had "different affinities" with political parties was undemocratic and totally unacceptable.

16. SCA explained that the Administration was adopting a two-pronged approach in pursuing constitutional development. On the one hand, it was studying the various models of electing the CE and LegCo by universal suffrage and on the other hand, it was exploring more opportunities for political talents to participate in public affairs. Irrespective of whether a CE was to be elected by the Election Committee or universal suffrage, it was for him to decide on the composition of his political team. As to how the proposal would be implemented, it would be for the third term CE to decide. SCA further said that although CE was currently not elected by universal suffrage, given that Hong Kong was a free and open society, he was subject to the scrutiny of LegCo, the media and the public. POs and political appointees of the new positions would similarly be subject to such scrutiny.

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17. Mr LEE Wing-tat said that the proper way to groom political talents was through development of political parties and elections by universal suffrage. In his view, the proposal would not achieve the objective of grooming political talents and providing continuity in a political career, as the political appointees would have to step down from office when a new CE assumed office. Mr LEE further said that the cost for implementing the proposal would be enough for creating 200 more District Council elected seats which could provide much more opportunities for aspiring persons to pursue a political career. His conclusion was that the additional political appointments were meant as rewards to pro-government parties and were tailor-made for the Democratic Alliance for the Betterment and Progress of Hong Kong.

18. Mr LEE Cheuk-yan said that the proposal was "neither a donkey nor a horse" as on one hand, it sought to provide an option for young aspirants to be appointed to the new positions and on the other hand, it required the political appointees to be like-minded people with CE who did not belong to any political parties. He asked the Administration to advise which political parties in LegCo could be regarded to have the closest political belief with CE.

19. SCA responded that it was impossible to tailor-make a proposal for any political party. The proposal of furthering the Political Appointment System would provide political talents the opportunity to pursue a broader political career by participating in the work of the Government, apart from becoming members of the District Councils and LegCo by election. The new political positions would be opened to people from a variety of backgrounds. People with or without political background would be considered for appointment to the new positions. As regards the issue of providing continuity on political career raised by Mr LEE Wing-tat, SCA said that there was no guarantee of continuity in a political career, e.g. incumbent members could also lose in seeking re-election to the District Councils and LegCo.

20. As regards Mr LEE Cheuk-yan's question about which political parties shared the political belief of CE, SCA said that the level of support rendered by political parties might vary with different issues. On most occasions, the Administration secured the support of over 50% of LegCo Members on its legislative proposals. On some occasions, it received support from two-thirds of all Members, e.g. in the case of the Appropriation Bill and the Tamar development project which were supported by the Democratic Party. In any event, it was necessary for the Government to make its best efforts to gain support from independent Members and Members affiliated with political parties on various Government initiatives.

21. Mr LEE Wing-tat suggested and members agreed that a special meeting should be arranged to allow members to further discuss the Consultation Document.

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(*Post-meeting note* : With the concurrence of the Chairman, the special meeting was scheduled on 31 July 2006 at 2:30 pm.)

22. The meeting ended at 1:07 pm.

Council Business Division 2
Legislative Council Secretariat
2 November 2006

立法會
Legislative Council

LC Paper No. CB(2)87/06-07
(These minutes have been seen
by the Administration)

Ref : CB2/PL/CA

Panel on Constitutional Affairs

**Minutes of special meeting
held on Monday, 31 July 2006, at 2:30 pm
in the Chamber of the Legislative Council Building**

- Members present** :
- Dr Hon LUI Ming-wah, SBS, JP (Chairman)
 - Hon Jasper TSANG Yok-sing, GBS, JP (Deputy Chairman)
 - Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
 - Dr Hon David LI Kwok-po, GBS, JP
 - Hon Margaret NG
 - Hon CHEUNG Man-kwong
 - Hon Bernard CHAN, GBS, JP
 - Hon CHAN Kam-lam, SBS, JP
 - Hon LEUNG Yiu-chung
 - Dr Hon Philip WONG Yu-hong, GBS
 - Hon Howard YOUNG, SBS, JP
 - Hon LAU Wong-fat, GBM, GBS, JP
 - Hon Emily LAU Wai-hing, JP
 - Hon CHOY So-yuk, JP
 - Hon Timothy FOK Tsun-ting, GBS, JP
 - Hon TAM Yiu-chung, GBS, JP
 - Hon Abraham SHEK Lai-him, JP
 - Hon LI Fung-ying, BBS, JP
 - Hon LEE Wing-tat
 - Hon Daniel LAM Wai-keung, SBS, JP
 - Hon LEUNG Kwok-hung
 - Dr Hon KWOK Ka-ki
 - Hon CHEUNG Hok-ming, SBS, JP
 - Hon CHIM Pui-chung
 - 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 Martin LEE Chu-ming, SC, JP

Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon WONG Yung-kan, JP
Dr Hon YEUNG Sum
Hon LAU Chin-shek, JP
Hon LAU Kong-wah, JP
Hon Miriam LAU Kin-ye, GBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon MA Lik, GBS, JP
Hon Alan LEONG Kah-kit, SC
Dr Hon Fernando CHEUNG Chiu-hung
Hon WONG Ting-kwong, BBS
Hon Ronny TONG Ka-wah, SC
Hon KWONG Chi-kin
Hon TAM Heung-man

Public Officers : Item I
attending

Mr Stephen LAM Sui-lung
Secretary for Constitutional Affairs

Ms Denise YUE Chung-ye
Secretary for the Civil Service

Mr Andrew WONG Ho-yuen
Permanent Secretary for the Civil Service

Ms May CHAN Wing-shiu
Principal Assistant Secretary for Constitutional Affairs

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

Staff in : Mrs Eleanor CHOW
attendance Senior Council Secretary (2)4

Mrs Fonny TSANG
Legislative Assistant (2)3

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- I. Further Development of the Political Appointment System**
(Consultation Document on "Further Development of the Political Appointment System")

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LC Paper No. CB(2)2858/05-06(01) – Paper provided by the Administration on "Further Development of the Political Appointment System"

LC Paper No. CB(2)2848/05-06(01) – Note on the comparison of the proposed political appointment system for Hong Kong and the system in the United Kingdom and Canada provided by the Administration)

Meeting arrangement

Mr LEUNG Yiu-chung expressed dissatisfaction that this meeting and the meeting held on 26 July 2006 were arranged in such a rush, thus giving insufficient notice for members to attend the meetings. He queried whether the Chairman had made a good judgment in acceding to the request of the Administration in holding the two meetings, given that there was no urgency in discussing the Consultation Document on "Further Development of the Political Appointment System" (the Consultation Document).

2. Secretary for Constitutional Affairs (SCA) explained that the Chief Secretary for Administration and the House Committee had previously agreed that the Administration should brief the relevant Panel on major policy issues prior to its announcement to the media. The Administration therefore requested the Panel to hold a meeting on 26 July 2006, prior to the press conference to be held by the Administration in the afternoon on the same day to announce the publication of the Consultation Document.

3. The Chairman explained that his decision to convene the meeting on 26 July 2006 was to tie in with the work of the Administration. The Administration had briefed the Panel on its proposals relating to further development of the Political Appointment System, as set out in the Consultation Document, at the meeting on 26 July 2006 which was held as an informal meeting because of the lack of a quorum. In response to the request made by members at that meeting, a special meeting was arranged today for members to continue discussion on the Consultation Document.

The proposal of creation of additional positions of political appointees

4. Members noted that the Administration had proposed to create new positions within the Government, namely Deputy Directors of Bureau and Assistants to Directors of Bureau, with the aim of strengthening support for Principal Officials (POs) in carrying out political work. In principle, each Director of Bureau would be provided with one Deputy Director of Bureau and one Assistant to Director of Bureau.

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5. Noting that Deputy Directors of Bureau would be responsible principally for assisting Directors of Bureau in undertaking the full range of political work and deputising for POs during the latter's temporary absence, Mr CHAN Kam-lam asked whether their appointment required the consent of the Central People's Government (CPG).

6. SCA explained that Article 48(5) of the Basic Law provided that the Chief Executive (CE) should nominate and report to CPG for appointment of POs, and to recommend to CPG the removal of POs. However, the provision did not cover the new positions proposed to be created. Deputy Directors of Bureau would be appointed and removed by CE on the recommendation of Directors of Bureau.

7. Mr CHAN Kam-lam held the view that the distribution of policy portfolios among the 11 bureaux was uneven. Some POs were responsible for an exceptionally wide policy portfolio. Even with the addition of the new positions, the POs concerned would still be overburdened. He asked whether the Administration would take the opportunity to split some of the bureaux into two separate bureaux, e.g. the Health, Welfare and Food Bureau.

8. SCA responded that the proposal sought to create within the Government a small number of positions dedicated to political affairs. Public Consultation would end on 30 November 2006. The views collected would be analysed with a view to announcing the Government's decision on the way forward some time during the first half of 2007. It would be for the third term CE to decide how to implement the proposal, and whether any adjustment should be made to the policy portfolios of the 11 bureaux.

9. Mr Howard YOUNG agreed that the support provided to POs was insufficient for them to engage in liaison with Legislative Council (LegCo) Members, the media and political parties in order to secure the requisite support for Government initiatives. He also agreed that additional political appointments would be conducive to maintaining the political neutrality of the civil service. He was, however, concerned about the funding required for implementing the proposal. Given that these new political appointees would take up some of the political work originally shouldered by Permanent Secretaries and senior civil servants, he asked whether there was room for achieving savings in manpower. He also asked whether a person appointed initially to fill a position would be subject to transfer to another position during the term of his appointment.

10. SCA said that the Administration was cautious about the use of public money. In implementing the Political Appointment System in 2002, emphasis was made to retain the positions of Permanent Secretaries in order to preserve the permanent and professional civil service structure. Under the present proposal, it was expected that the political appointees would relieve senior civil

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servants from some of the political work, so that the latter could conduct more research and analysis on policy options. The further development of the Political Appointment System would not reduce the responsibilities and workload of civil servants.

11. SCA further said that some POs had been appointed to fill other positions in the past four years, as in the case of Mr Joseph WONG (former Secretary for the Civil Service, now the Secretary for Commerce, Industry and Trade) and Mr Henry TANG (former Secretary for Commerce, Industry and Trade, now the Financial Secretary). He, therefore, would not rule out the possibility for a political appointee to be redeployed to another bureau during the term of his appointment.

12. Ms LI Fung-ying asked about the term of office of Deputy Directors of Bureau and whether a Director of Bureau would shoulder political responsibility if his deputy had failed in his duties.

13. SCA responded that the term of office of the Deputy Directors of Bureau would not exceed that of the Chief Executive who appointed them, which was normally five years. The existing Code for Principal Officials (the Code), which set out the requirements on declaration of interests, disclosure of official information, and acceptance of employment after leaving office, etc, would, with any necessary modifications, apply to the new political appointees. Given that Deputy Directors of Bureau were recommended for appointment by the Directors of Bureau and depending on the circumstances, the latter might be required to shoulder political responsibility for policy failures of the former to a certain extent.

14. Mr LEUNG Kwok-hung and Dr KWOK Ka-ki said that only persons returned from direct elections and had the mandate of the people should be appointed to political positions. Dr KWOK added that the existing Political Appointment System was not conducive to political party development and lacked transparency. The additional political appointments were meant as rewards to pro-government parties and consortiums. He could not support the system.

15. SCA said that CE and POs were both accountable to the public under the Political Appointment System. In the past few years, the work of POs was highly transparent as they were required to report their work to LegCo and the public. If a CE was charged with serious breach of law or dereliction of duty, Article 73(9) of the Basic Law provided the procedure for impeaching a CE. SCA further said that although Hong Kong had yet to achieve universal suffrage, its system of government was more akin to the presidential system. However, the Administration did not intend to model its Political Appointment System on that of the United States in which, reportedly, some several thousand political appointments were made whenever there was a change of government.

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Widespread staffing changes following a change in political leadership might have an adverse impact on the continuity of governance.

16. Ms Emily LAU said that Hong Kong should develop a multi-party system in order to take forward constitutional development. Members of major political parties/groups returned in direct elections should become members of the governing team. While she noted that further development of the Political Appointment System sought to improve governance, provide better service to the people, provide a more comprehensive career path for political talents and enhance the relationship between the executive and the legislature, she was not convinced that the proposal could achieve these objectives. Ms LAU further said that the information provided by the Administration on the comparison of the proposed Political Appointment System for Hong Kong and the systems in the United Kingdom (UK) and Canada (LC Paper No.2848/05-06(01)) was misleading as it only illustrated that each minister in UK and Canada had two groups of officials working under him, i.e. civil servants and political appointees, without mentioning the party system that underpinned the political appointment system. Ms LAU pointed out that in UK 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 ministers who would in turn make further political appointments. Ms LAU asked the Administration to explain how the appointment of political appointees, who were not drawn from political parties/groups, could strengthen its capability in securing support from LegCo on its policy initiatives.

17. SCA responded that each country developed its system of government based on its own needs and characteristics. Both UK and Canada had a long history of political party development. Hong Kong was still shaping its electoral systems, political traditions and development of political talent. The Administration was adopting a two-pronged approach in pursuing constitutional development. On one hand, it was creating an environment that was conducive to the development of political parties and grooming of political talents; and on the other hand, it was exploring models of a universal suffrage system for CE and LegCo. Irrespective of whether a CE was to be elected by the Election Committee or through universal suffrage, the CE should have sufficient room to form his own political team to help implement his electoral manifesto. The proposed additional political layers sought to provide more room for CE to bring in political talents from political parties, civil service, professional or business sectors to participate in government work, and provide opportunities for them to establish a network with various stakeholders while engaging in political work.

18. Ms Emily LAU said that some members of the public had expressed serious concern whether the creation of the new political tier at a cost of some \$60 million would result in better governance. According to the Administration, a main reason for introducing the proposal was to provide additional support to POs in their political work. In her view, it was not necessary for the

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Administration to create additional political appointee positions for the purpose of lobbying for Members' support on its policies. What the Administration should do was to consult political parties beforehand on any policy proposals, and this would help secure the requisite support in LegCo. Taking the Consultation Document as an example, Ms LAU asked whether the Administration had taken into account the comments of any political parties in drawing up the proposals therein.

19. SCA said that since the publication of the Consultation Document, the proposal had been widely discussed by the public, media and academics. The major concerns raised were related to the division of responsibilities between political appointees and civil servants, and the financial implications of the proposal. He assured members that the Administration would exercise great caution in the use of public funds. With the implementation of the proposal, it was expected that the communication and relationship between political parties and the Administration would be enhanced. As regards consultation with political parties prior to policy formulation, SCA said that, at present, the Administration was gathering views from political parties through three different avenues, namely, meeting with CE prior to the delivery of CE's Policy Address, meeting with the Financial Secretary prior to the preparation of the Budget, and briefings given to Panels on legislative and financial proposals.

20. Mr LEE Wing-tat advocated the formation of a ruling coalition comprising different political parties to assist CE in governance. He considered that the present arrangement of appointment of members of political parties as Members of the Executive Council was not conducive to political party development, as the number was small and they were only appointed in their individual capacity.

21. SCA said that the further development of the Political Appointment System would open up the top government positions to individuals outside the civil service including members of political parties and help develop political leadership for Hong Kong. Unlike some countries where the government was formed by one of the major political parties, the situation in Hong Kong was different in that no single political party had emerged as the dominant party in LegCo.

22. Mr TAM Yiu-chung expressed concern that the proposal would not be conducive to grooming political talents. He pointed out that the range of political work proposed to be carried out by the political appointees, such as providing political input in setting policy objectives and priorities, formulating policy and legislative initiatives, and preparing political statements for POs required the appointees to be highly competent and to have substantial experience in political work. He pointed out that persons of such calibre were rare even among members of political parties.

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23. Mr LEUNG Yiu-chung expressed dissatisfaction that political appointees would be asked to work from the very start without undergoing any training. The arrangement was like deploying untrained soldiers to fight in a war and let them die on the battlefield.

24. SCA responded that the proposal was not meant to provide a training school for political talents. Those appointed would be expected to take up substantive work. The proposal would open an option for young aspirants to pursue a political career and to serve the community, apart from standing for elections of the District Councils and LegCo.

25. Dr Philip WONG said that there should be room for an elected CE to appoint like-minded individuals to be members of his political team to help him deliver his policy and political agenda. Dr WONG expressed support for the proposal.

Role and responsibilities between the political tier and the civil service and related issues

26. Mr CHAN Kam-lam asked about the division of responsibilities and work between the new political appointee positions and the civil service. He expressed concern that unclear delineation would cause confusion in the civil service.

27. Mr TAM Yiu-chung noted that Permanent Secretaries currently handled work with political content such as explaining and defending Government policies and lobbying for support in this regard. If the proposal was implemented, Permanent Secretaries would assume a supporting role in these areas of work within the limits of political impartiality. He expressed concern whether Permanent Secretaries would be able to undertake such work without undermining political neutrality. He also expressed concern whether the proposed establishment of political appointees could cope with the range of political work proposed for them to take on.

28. Mr Daniel LAM expressed support for the proposal but considered that the Administration should make an assessment on the financial implications of the proposal, the effectiveness of the proposal in grooming political talents and taking forward constitutional development towards the aim of universal suffrage. He said that there should be clear division of role and responsibilities between Deputy Directors of Bureau and Permanent Secretaries to prevent confusion and waste of resources.

29. Ir Dr Raymond HO asked whether the Administration had reviewed the Accountability System for POs implemented in 2002. He noted that some senior civil servants were unhappy about the system because of unclear division of responsibilities, e.g. they were required to attend meetings of LegCo committees

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to explain Government policies on behalf of POs. With the proposed creation of another two levels of political appointees, he expressed serious concern about the delineation of role and responsibilities between the political tier and the civil service. As indicated in paragraph 18 of the Administration's paper, this would need to be clearly spelt out.

30. Ms Margaret NG said that she failed to see how the system implemented in 2002 had enhanced the accountability of POs and allowed the civil service to maintain political neutrality. It was observed that senior civil servants had been engaged in political work in the past few years, e.g. to lobby for Members' support for Government policies and decisions.

31. SCA explained that the interface between the political tier and the civil service was crucial to good governance. The delineation of role and responsibilities between the political tier and the civil service was covered in Chapter 4 of the Consultation Document. In brief, Deputy Directors of Bureau would deputise for Directors of Bureau in their absence and attend the main meetings of LegCo to respond to motion debates, respond to LegCo questions and handle legislative work. The civil service would remain as a permanent, professional and politically neutral institution contributing to the effective governance of Hong Kong. It was expected that at the commencement of each LegCo session, Directors of Bureau would discuss with Deputy Directors of Bureau and Permanent Secretaries the division of work in the coming year. The Administration would seek to clearly spell out the role and responsibilities between the political tier and the civil service under the further development of the Political Appointment System in the finalised package.

32. SCA said that the Administration had gained some experience from the 2002 system after four years of operation. Its implementation was not entirely smooth in its initial period as POs, especially those who came from the private sector, and the civil service had to get used to the new working relationship. When the system was first implemented, all POs reported direct to CE. As the direct span of control of CE was too wide, arrangement had recently been made for the 11 Directors of Bureau to report to the Financial Secretary and the Chief Secretary for Administration respectively. This arrangement allowed the involvement of at least two levels of POs in the process of formulation of major policies.

33. SCA further said that a number of incidents in the past few years had demonstrated that separating the political tier from the civil service helped uphold the political neutrality of the civil service. For example, the POs concerned had borne the brunt of political responsibility in both the Penny Stocks and SARS incidents.

34. Secretary for the Civil Service (SCS) said that since the creation of a political tier in 2002, civil servants had assisted POs in attending meetings of

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LegCo to explain Government policies. The concept of a politically neutral civil service did not mean that civil servants should not engage in work with political content. Senior civil servants, in particular, were expected to assist POs in certain political work, such as explaining policies decided by the Government to political parties and the media, and helping to secure the support of the community and LegCo on these policies. However, they should refrain from taking part in election politics and other electioneering activities.

35. SCS added that according to her understanding, the major concerns initially expressed by civil servants on the proposals in the Consultation Document were as follows. First, there should be clear delineation of the role and responsibilities between the political tier and the civil service. Second, civil service posts should not be reduced to offset for the creation of the additional political appointee positions. Third, the existing system of appointment, promotion and discipline for the civil service should remain unchanged. The Administration welcomed feedback from civil servants on the proposals set out in the Consultation Document.

36. SCA also advised members that the implementation of the proposals set out in the Consultation Document would not take place before the third term CE assumed office. The actual timing and pace of implementation would be subject to, among others, the availability of resources and individuals of the right calibre to fill the new positions.

37. Referring to the remark of CE that he had closer relationship with some political parties and more distant relationship with others, Mr LEE Wing-tat expressed concern whether civil servants could maintain its neutrality if the additional political appointee positions were mainly filled by members of pro-government political parties. He further expressed concern about the line of command between the enhanced political tier and the civil service. He said that although there was no direct line of command between civil servants and Deputy Directors of Bureau and civil servants would continue to report direct to POs through their Permanent Secretaries, one should not ignore the fact that when deputised as POs, the rank of Deputy Directors of Bureau was higher than that of Permanent Secretaries. Mr LEE requested the Administration to consider conducting an anonymous opinion survey on Administrative Officers to find out whether the neutrality of the civil service had been compromised due to political pressure, after the proposal was implemented. The opinion survey could be conducted on a six-month or yearly basis with its result for internal reference of the Administration.

38. SCA assured members that the new political tier was not tailor-made for any particular political party. Only persons with the right calibre and ability could be appointed as political officials. Those appointed must share the vision and mission with CE in order to assist CE to realise his political aspirations and to deliver effective governance. He envisaged that only a few of the political

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appointees would come from political parties, as many political talents would participate in the District Council and LegCo elections to be held in 2007 and 2008 respectively.

39. SCS said that she had maintained close liaison with civil servants on both formal and informal basis. She held regular meetings with Permanent Secretaries and heads of departments. She paid visit to a government department about every 10 days or so and during which views were exchanged with the senior officials of the department on a wide range of issues for about half an hour, to be followed by another 90-minute or so discussion with representatives of civil servants and staff associations of the department. Informal meetings were also held with some 20-30 middle ranking Administrative Officers for two hours every fortnight or so during which they could raise any issues for discussion. These arrangements would continue during the term of her appointment as SCS.

40. Ms LI Fung-ying pointed out that different cost-cutting measures implemented by the Administration in the past few years had dampened staff morale, e.g. freezing of recruitment, introducing voluntary retirement schemes and freezing or reducing civil service pay. She asked whether the proposal would have a negative impact on the morale and promotion prospect of civil servants.

41. SCA responded that since the financial crisis in 1998, the establishment of the civil service had been reduced from 180 000 to 160 000 in order to contain Government expenditure. Despite the reduction in the staff establishment and increasing workload, the civil service continued to render professional service to the community. One of the guiding principles in pursuing the proposal was that additional positions of political appointees would not be created at the expense of the civil service establishment. As the Government would have surplus in the current year, it was expected that provision would be earmarked for 2006-07, and even 2007-08, for increasing staff establishment to alleviate the workload in the relevant departments. As regards the impact of the proposal on staff morale, the Administration would listen to the views of civil servants during consultation. Given that the current Permanent Secretary structure and civil service establishment would be maintained, the proposal would not affect the promotion prospect of civil servants.

Prevention of conflict of interest

42. Mr LEE Wing-tat and Mr CHEUNG Man-kwong said that since the publication of the Consultation Document, there was a view in the community that consortiums could easily make arrangement for their representatives to join the new political tier, given that the appointment procedure for political appointees only involved the recommendation of Directors of Bureau and appointment by CE. The consortiums' representatives, once appointed, could influence the direction of the formulation of Government policies to the

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advantage of the consortiums. This could result in collusion between the Government and the business sector, especially in areas of finance and land development. Mr CHEUNG asked about the measures to guard against conflict of interest of political appointees during office and after stepping down from office.

43. SCA said that the Political Appointment System had been implemented for four years and the core value of the system was a clean and accountable government. It attached a lot of importance to the integrity of POs and their accountability to the public. The two incumbent POs who came from the private sector, namely Mr Frederick MA and Mr Henry TANG, had formulated policies under their respective portfolios in an impartial manner. To uphold public confidence in public offices, rules similar to those applicable to POs would be formulated to forestall the risk of real or perceived conflict of interest. The requirement for POs to declare their investments and interests to CE and to make available a set of declarations to LegCo and the public would also be applicable to the new positions of political appointees. Under the proposal, persons from the professional or private sector should sever their ties with the relevant bodies or organisations once appointed to the political positions to ensure that there would be no actual or apparent conflict of interest.

44. SCA further said that under the existing arrangement, a PO should, within one year after stepping down from office, seek the advice of the Advisory Committee on Post-Office Employment for Principal Official under the Accountability System (the Advisory Committee) chaired by a Judge of the Court of First Instance of the High Court on his plan to take up employment. The PO concerned should state to the Advisory Committee that there was no conflict of interest arose between his previous public duties and the new employment. The Advisory Committee after studying the case would advise the PO whether he should go ahead with his plan and it could make public its advice. Over the past few years, a few POs had stepped down from office and none of them had acted against public interest. This proved that the existing system had upheld the principles of openness and fairness.

45. Mr CHEUNG Man-kwong commented that the advice of the Advisory Committee was not binding. He pointed out that it was possible for a PO or political appointee to formulate Government policies which were favourable to a consortium with which he planned to take up employment after stepping down from office. Given that political appointees were not elected and accountable to the people, he asked how the Administration intended to plug such loopholes.

46. SCA responded that the Administration would consider how the existing system could be improved. While POs were subject to the 12-month sanitisation period, there was no intention to impose an absolute ban to prohibit them from returning to their original profession or business within the 12 months after stepping down from office. Moreover, any policies formulated by the

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Government while the POs were in office would be subject to LegCo scrutiny and public monitoring.

47. The meeting ended at 4:24 pm.

Council Business Division 2
Legislative Council Secretariat
16 October 2006

Further Development of the Political Appointment System

Relevant documents

<u>Meeting</u>	<u>Meeting Date</u>	<u>Paper/Question</u>
Legislative Council	6 July 2005	Official Record of Proceedings of an oral question raised by Hon SIN Chung-kai on "Recruiting People with Political Aspirations to Serve as Administrative Assistants to Directors of Bureaux"
Panel on Constitutional Affairs	26 July 2006	<p>Consultation Document on "Further Development of the Political Appointment System"</p> <p>Administration's paper on "Further Development of the Political Appointment System" [LC Paper No. CB(2)2858/05-06(01)]</p> <p>Minutes of meeting [LC Paper No. CB(2)242/06-07]</p>
	31 July 2006	<p>Administration's note on the comparison of the proposed political appointment system for Hong Kong and the system in the United Kingdom and Canada [LC Paper No. CB(2)2848/05-06(01)]</p> <p>Minutes of meeting [LC Paper No. CB(2)87/06-07]</p>
Legislative Council	17 January 2007	Official Record of Proceedings of an oral question raised by Hon Albert HO Chun-yan on "Avoidance of Conflict of Interests by Principal Officials"
	4 July 2007	Official Record of Proceedings of an oral question raised by Hon Margaret NG on "Policy Regarding Breach of Confidentiality Rule by Former Principal Officials"