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Panel on Constitutional Affairs

Meeting on 17 December 2007

Background Brief on Vote Counting Arrangements for Elections

PURPOSE

The Administration will brief the Panel on the vote counting arrangements for the 2008 Legislative Council (LegCo) election at its meeting on 17 December 2007. This paper provides background information on the past discussions of LegCo Members on the vote counting arrangements for elections.

VOTE COUNTING ARRANGEMENTS FOR DC ELECTIONS

1999 DC election

2. In the 1999 DC election, ballot boxes at individual polling stations were delivered to the 18 district counting stations for counting of votes. If more than one polling station was used for a constituency, ballot papers from two or more polling stations must be mixed before counting.

2003 DC election

3. The Electoral Affairs Commission (EAC) proposed to adopt decentralized counting arrangements in the 2003 DC election such that counting of votes would be carried out in polling stations after the close of poll. The proposed counting arrangements should enable election results to be declared earlier. The Electoral Affairs Commission (Electoral Procedure) (District Councils) (Amendment) Regulation 2003 sought to, inter alia, give effect to the proposal.

4. A few members of the Subcommittee set up to study the Amendment Regulation considered the arrangement for mixing ballot papers from different polling stations within a constituency before counting was an important principle which should not be compromised for the efficiency of the vote counting process. This long-standing arrangement would safeguard the integrity of the electoral process within a constituency and would minimize the chance of intimidation and reprisals, or other corrupt conduct at elections.

5. In response to members' concern about the protection of secrecy of votes in the case of polling stations which served only a very small number of electors, the EAC agreed to modify the vote counting arrangements. Under the revised proposal, where a polling station had less than 200 registered electors (small polling stations), the ballot papers cast at the polling station would be delivered to another polling station within the same constituency for counting. The aggregate number of registered electors of the polling stations concerned would be at least 200.

6. At the Council meeting on 9 July 2003, a Member moved a motion to repeal the Amendment Regulation but the motion was negatived. The motion moved by the Administration to amend the Amendment Regulation to give effect to the modified vote counting arrangements was passed.

7. In the 2003 DC election, the counting of votes was for the first time conducted at individual polling stations. According to the Report on the 2003 District Council Election submitted by the EAC to the Chief Executive (CE) in February 2004, a total of 423 polling stations, including 22 special polling stations designated for voting by disabled electors, were opened. The time of converting polling stations into counting stations varied; some took less than an hour but others needed a much longer time. The average time taken was about an hour. The overall vote counting process took six hours to complete after the close of poll, as compared to 14½ hours in the 1999 DC election. The Report recommended, inter alia, that consideration should be given to -

- (a) relieving the Presiding Officers of mundane administrative duties in order to facilitate early conversion of polling stations into counting stations; and
- (b) adopting a shift or staggered-hours system so as to enable the polling-cum-counting staff to take turns to have some rest during the day.

2007 DC election

8. In view of the successful experience in 2003, the same vote counting arrangements were adopted in the 2007 DC election held on 18 November 2007.

VOTE COUNTING ARRANGEMENTS FOR LEGCO ELECTIONS

1998 and 2000 LegCo elections

9. In the 1998 LegCo election, counting for both geographical constituencies (GCs) and functional constituencies (FCs) was conducted at one central counting station. In the 2000 LegCo election, one regional counting station was set up for each of the five GCs, and a central counting station was set up for the FCs.

2004 LegCo election on 12 September 2004

10. In the 2004 LegCo election, new ballot papers of larger size were proposed to be introduced to allow the printing of specified particulars relating to candidates on ballot papers. Having reviewed the experience of the 2003 DC election and in view of the operational problems associated with the transportation of ballot boxes arising from the introduction of the new ballot papers, the EAC proposed that vote counting for GCs in the 2004 LegCo election should be decentralized to individual polling stations.

11. The Panel on Constitutional Affairs discussed the following proposed polling and counting arrangements for the 2004 LegCo election at its meetings on 16 February and 15 March 2004 -

- (a) vote counting for 28 FCs would be conducted at a central counting station as in previous LegCo elections (the EAC was considering using optical mark readers (OMRs) to count the FC votes at the central counting station);
- (b) immediately after the close of poll, about 500 polling stations (other than small polling stations with less than 200 registered electors) would be converted into counting stations and the count would be performed by the polling staff; and
- (c) the ballot papers of a small polling station would be transferred to a main counting station converted from a polling station with not less than 200 registered electors. The votes for the small polling station and the main counting station would be mixed before the votes were counted to protect the secrecy of votes cast.

12. In view of Members' lack of confidence in the reliability of OMR machines following a demonstration session, the EAC agreed not to further pursue the proposal to use OMR machines to count FC votes in the 2004 LegCo election. The manual counting process for FCs in the 2000 LegCo election would be adopted for the 2004 LegCo election.

13. A Subcommittee was set up to study the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) (Amendment) Regulation 2004 which provided for, inter alia, the counting of votes of GCs at polling stations after the close of poll. In view of media reports on the alleged use of duress against electors with a view to influencing the outcome of the 2004 LegCo election, some members of the Subcommittee expressed concern about the introduction of decentralized counting arrangements to LegCo elections as the preference of voters of individual polling stations might be easily revealed in view of the small number of ballot papers handled by each polling-cum-counting station. Some members proposed to increase the number of registered electors for a small polling station from "200" to "500" or

"1 000". A member stressed the importance of upholding the principle for ballot papers from different polling stations within a GC to be mixed before counting, irrespective of the number of electors in the polling stations in order to safeguard the integrity of the electoral process.

14. Other concerns relating to the proposed counting arrangements for GCs had also been raised during the deliberation of the Subcommittee. These included the possible inconsistencies in the handling of questionable ballot papers by different Presiding Officers, the difficulty faced by candidates with lesser resources to identify and deploy a sufficient number of agents to monitor the counting process at each and every station within a GC, and whether the election results could be announced earlier as anticipated, in view of the long time taken for some polling stations to be converted into counting stations in the 2003 DC election.

15. In order to allay members' concerns about the protection of secrecy of votes cast, the Administration agreed to increase the "200 registered electors" threshold for defining small polling stations to "500 registered electors" and to move a motion to amend the Amendment Regulation to that effect. It was estimated that there would be 17 polling stations with less than 500 registered electors in the 2004 LegCo election.

16. At the Council meeting on 9 July 2004, a Member moved a motion to increase the threshold of "200 registered electors" to "7 000 registered electors", but the motion was negatived. The motion moved by the Administration was carried.

2007 LegCo Hong Kong Island GC by-election on 2 December 2007

17. Same as the 2004 LegCo election for GCs and the 2007 DC election, the vote counting for the 2007 LegCo Hong Kong Island GC by-election was conducted at individual polling stations.

Declaration of results of the count for GCs

18. A comparison of the time taken for the results of the count for GCs to be declared in the 2000 LegCo election, the 2004 LegCo election and the 2007 LegCo by-election is as follows -

- (a) 2000 LegCo election on 10 September 2000
(GC count was conducted at five regional counting stations)
 - Kowloon West GC (first GC to announce result) - about 8:15 am on the following day; and
 - New Territories West GC (last GC to announce result) - about 12:45 pm on the following day.

- (b) 2004 LegCo election on 12 September 2004
(GC count was conducted at individual polling stations)
- Kowloon West GC (first GC to announce result) - about 7:45 am on the following day; and
 - Hong Kong Island GC (last GC to announce result) - shortly after 12:00 noon on the following day (a re-count of all votes was requested by candidates when the counting result was made known to them at about 6:30 am that morning).
- (c) 2007 LegCo Hong Kong Island GC by-election on 2 December 2007
(GC count was conducted at individual polling stations)
- the counting of votes took about 4.5 hours and was concluded at 2:55 am on the following day.

REVIEW OF 2004 LEGCO ELECTION

Background

19. The third term LegCo election was held on 12 September 2004. A number of new measures were introduced in the election with a view to improving and refining the electoral process. These measures included newly designed ballot papers and ballot boxes, decentralized counting of ballot papers, and the use of Interactive Voice Response System (IVRS) to automatically collect electoral statistical figures through telephone calls from all 501 polling and counting stations.

20. On the polling day of the 2004 LegCo election, various problems relating to the polling and counting arrangements arose and affected the smooth conduct of the election. These included the insufficient supply of ballot boxes for GC elections and delay in replenishment, use of stopgap measures in some polling stations pending the arrival of additional GC ballot boxes, overcrowdedness and prolonged queuing at some polling stations, long working hours of polling-cum-counting staff, eviction or exclusion of candidates or their agents from polling stations, problem in compilation of voter turnout figures, delay in announcement of the election results without explanation, and ballot discrepancies in some FCs.

21. At the Council meeting on 27 October 2004, Hon Margaret NG moved a motion urging the CE to appoint an independent Commission of Inquiry to investigate the irregularities and general confusion on the polling day of the 2004 LegCo election and make such recommendations as appropriate on improvement and disciplinary measures. The motion was negated.

22. On 8 November 2004, the EAC submitted the "Interim Report on the 2004 Legislative Council Election Held on 12 September 2004" (the Interim Report) to the

CE. Secretary for Constitutional Affairs (SCA) made a statement on the Interim Report at the Council meeting on 10 November 2004. On the same day, the CE announced that a non-statutory independent committee of experts would be set up to review the management, planning and conduct of elections, and to make recommendations on improvement measures.

23. On 11 December 2004, the EAC submitted the "Report on the 2004 Legislative Council Election Held on 12 September 2004" (the Final Report) to the CE. The EAC proposed a number of measures to improve the arrangements for future elections.

24. SCA made a statement on the Final Report at the Council meeting on 15 December 2004. On the same day, the CE announced the appointment of the Independent Committee of Experts for the Review on the Management, Planning and Conduct of Elections (the Experts Committee) which was tasked to review the management, planning and conduct of elections, to assess the management responsibilities for these arrangements, and to make recommendations on improvement measures on the basis of the two EAC Reports and information obtained by the Experts Committee.

25. The Experts Committee published its report in May 2005. Based on the facts and information gathered, the Experts Committee concluded that it did not find any fundamental or major problems with the existing electoral system and procedure, and the chaos on the polling day was the result of a number of implementation problems some of which were caused by human errors or oversight. It made eight conclusions and 13 recommendations in Chapter 4 of the Report. The EAC and the Administration accepted the findings and recommendations.

Discussion of the Panel on Constitutional Affairs

26. The Administration briefed the Panel on Constitutional Affairs on the two EAC Reports and the Report of the Experts Committee at its meetings on 29 November 2004, 20 December 2004 and 30 May 2005 respectively. For the purpose of this paper, discussion on issues relating to the counting and re-counting arrangements for GC votes is summarized below.

Decentralized counting arrangements for GC votes

Recommendation in the Final Report of EAC and members' views

27. Paragraph 14.48 of the Final Report of EAC on the 2004 LegCo election recommended that -

".....consideration should be given to decentralizing the counting of GC votes to the regional level, with one counting station in each of the five GCs or to the district level, with one counting station in each of the 18 districts....."

28. One of the reasons quoted by the EAC for adopting the polling-cum-counting arrangement for GC votes was to enhance the efficiency of the vote counting process so that the election results could be announced earlier. In this connection, members are invited to note the following information provided in the Final Report -

- (a) the time taken for the 485 polling stations to be converted into counting stations for GCs varied from station to station. On average, the time required was around one hour;
- (b) the time for declaration of counting results for individual GCs and FCs varied. The counting results for respective GCs were declared from about 7:45 am to shortly after 12:00 noon on 13 September 2004. The counting results for the first FC and the last FC were declared at around 8:00 am and around 11:30 am respectively on 13 September 2004; and
- (c) the delay in the compilation of voter turnout statistics and the consequential delay in the announcement of election results in the 2004 LegCo election was due to the malfunctioning of the IVRS which necessitated a manual compilation of voter turnout figures.

29. When the Panel was briefed on the Final Report at its meeting on 20 December 2004, some members considered that decentralized counting of votes should not be given up lightly, as the practice was open, transparent and expeditious. Given that the problems relating to the counting of GC votes were technical in nature, they suggested that the problem could be overcome by enhancing the software of the information systems. Some other members were inclined to support centralized counting for GC votes at future elections, given the large number of polling stations in a GC and the problems associated with the recruitment and training of polling staff.

30. Some members expressed concern about the long working hours of polling-cum-counting staff in the 2004 LegCo election. The Final Report revealed that similar to that adopted in the 2003 DC election, all polling-cum-counting staff in the 2004 LegCo election, with the exception of the small polling stations, had to work through the poll and the count. Unlike most DC constituencies which normally had only one polling station, there were on average about 100 polling stations in each GC, and the counting results of all polling stations in the GC had to be added up before the overall result could be produced. The polling-cum-counting staff would need to wait for the completion of count and the confirmation that there was no request for re-count (or further re-count) for the whole GC before they could finish work. The situation was further exacerbated by the problem in the compilation of voter turnout statistics by the IVRS on the polling day.

31. The Administration highlighted some problems relating to the decentralized counting arrangements adopted for the 2004 LegCo election. For example, a request for re-count of a GC could involve some 100 individual polling stations and many of which were schools. If a re-count could not be completed overnight, the operation of

the schools would be affected on the following day. In addition, the experience in the 2004 LegCo election revealed that the one-shift system was too harsh for polling-cum-counting staff. However, if a two-shift system was adopted for future elections, over 1 000 teams of polling-cum-counting staff would be required (i.e. two teams for each of the 500 polling stations). This could lead to operational difficulties given the large number of staff involved.

32. The Administration advised that one of the benefits of centralized counting arrangements was that the standards adopted in determining the validity of ballot papers would be more consistent, hence minimizing disputes. However, some candidates favoured decentralized counting because the preferences of electors at individual polling stations could be easily assessed to help them plan and conduct their electioneering campaign strategically in future.

33. The Registration and Electoral Office (REO) advised the Panel that the EAC had not made a decision on the matter and merely suggested in the Final Report that consideration could be given to other alternatives with a view to improving future counting arrangements. Consultation would be conducted on any new counting arrangements before implementation.

Recommendation in the Report of the Experts Committee

34. The Panel was briefed on the Report of the Experts Committee at its meeting on 30 May 2005 and noted the following recommendation on counting arrangements in paragraph 4.36 of the Report -

"All of the three political parties which the Committee has met expressed their support for continuing the counting arrangements adopted in the Election, i.e. the polling-cum-counting arrangement for GC votes and centralized counting for FC votes. We agree that the polling-cum-counting arrangement, if implemented successfully, will speed up the counting process and the announcement of the election results and hence is more desirable. However, if the arrangement will continue to be adopted in future elections, REO should ensure that other supporting arrangements are available. For one thing, there should be separate shifts of staff for the polling and counting duties. In addition, in view of the problems arising from the conversion of a polling station into a counting station in the Election, REO should identify venues with sufficient space for having separate polling and counting areas as far as practicable."

35. The Administration advised the Panel that irrespective of whether future counting of votes would be centralized or decentralized, consideration would be given to continual publication of voter turnout figures and the counting results of candidates at individual polling stations within a GC.

Re-counting arrangements

36. Regarding re-counting arrangements, members are invited to note the following relevant recommendations -

Recommendation of the Final Report of EAC (paragraph 14.50)

".....to avoid the polling-cum-counting staff having to wait for a long time to see if a re-count is required, consideration may be given to making it a statutory requirement for an automatic re-count to be conducted right after the first count is completed, which would ensure accuracy and reduce the necessity of a further re-count."

Recommendation of the Report of the Experts Committee (paragraph 4.37)

"Under the present arrangement, candidates/agents may request a re-count when the counting result of a polling station is released in the station or the result of the GC as a whole is announced in the Central Counting Station. Counting stations cannot be closed until it is confirmed that there is no request for a re-count. To better utilize the manpower resources, instead of holding up a large number of counting staff at the counting stations, we suggest exploring the feasibility of conducting re-counting in the Central Counting Station for requests raised at the Station (normally for a GC as a whole)."

Wider use of information technology in electoral process

37. The Experts Committee suggested that to improve the efficiency of the polling and counting process, the feasibility of further computerizing the process should be explored as far as possible. For example, the use of OMR for sorting and counting FC votes was worth exploring.

38. The Administration advised the Panel at its meeting on 30 May 2005 that the EAC would set up working group(s) consisting of experts in the relevant fields in the private sector and representatives of the relevant bureaux and departments to examine, inter, alia, the possibility of wider use of information technology in the electoral process, having regard to technical feasibility, resources required, and public acceptance.

RELEVANT PAPERS

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

Vote Counting Arrangements for Elections

Relevant documents

<u>Meeting</u>	<u>Meeting Date</u>	<u>Papers/Motion/Council Question</u>
Panel on Constitutional Affairs	19 February 2001	Electoral Affairs Commission Report on the 2000 Legislative Council Election held on 10 September 2000
House Committee	27 June 2003	Second report of the Subcommittee on subsidiary legislation relating to District Councils election gazetted on 16 May 2003 [LC Paper No. CB(2)2650/02-03]
Legislative Council	10 July 2003	Official Record of Proceedings of the Council meeting on the debate on the motions relating to the Electoral Affairs Commission (Electoral Procedure) (District Councils) (Amendment) Regulation 2003
Panel on Constitutional Affairs	19 April 2004	Electoral Affairs Commission Report on the 2003 District Council Election
House Committee	25 June 2004	Third report of the Subcommittee on subsidiary legislation relating to 2004 Legislative Council elections [LC Paper No. CB(2)2922/03-04]
Legislative Council	7 July 2004	Official Record of Proceedings of the Council meeting on the debate on the motion relating to the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) (Amendment) Regulation 2004
Panel on Constitutional Affairs	18 October 2004	Transcript of remarks by the Chairman of Electoral Affairs Commission at a press briefing on 15 September 2004 on polling arrangements for the 2004 LegCo election [LC Paper No. CB(2)49/04-05(03)]

<u>Meeting</u>	<u>Meeting Date</u>	<u>Papers/Motion/Council Question</u>
		Administration's paper on "2004 Legislative Council Election" [LC Paper No. CB(2)52/04-05(01)] Minutes of meeting [LC Paper No. CB(2)199/04-05]
Legislative Council	20 October 2004	Official Record of Proceedings of the Council on a written question raised by Hon Fred LI Wah-ming on "Provision of accessible polling stations"
	27 October 2004	Official Record of Proceedings of the Council on a motion moved by Hon Margaret NG on "Public inquiry on irregularities in the 2004 LegCo election"
	10 November 2004	Electoral Affairs Commission Interim Report on the 2004 Legislative Council Election held on 12 September 2004 [the Interim Report] Statement of the Secretary for Constitutional Affairs concerning the Interim Report Registration and Electoral Office's paper on the Interim Report Constitutional Affairs Bureau's paper on the Interim Report
Panel on Constitutional Affairs	29 November 2004	A list of 13 questions raised by Hon Albert Jinghan CHENG on the Interim Report [LC Paper No. CB(2)204/04-05(02)] Administration's reply to the questions raised by Hon Albert Jinghan CHENG on the Interim Report [LC Paper No. CB(2)221/04-05(01)] Minutes of meeting [LC Paper No. CB(2)588/04-05]

<u>Meeting</u>	<u>Meeting Date</u>	<u>Papers/Motion/Council Question</u>
Legislative Council	15 December 2004	<p>Electoral Affairs Commission Report on the 2004 Legislative Council Election held on 12 September 2004 [the Final Report]</p> <p>Statement of the Secretary for Constitutional Affairs on the Final Report</p>
Panel on Constitutional Affairs	20 December 2004	<p>Registration and Electoral Office's paper on the Final Report [LC Paper No. CB(2)448/04-05(05)]</p> <p>Constitutional Affairs Bureau's paper on "Independent Committee of Experts for the Review on the Management, Planning and Conduct of Elections" [LC Paper No. CB(2)448/04-05(06)]</p> <p>Minutes of meeting [LC Paper No. CB(2)825/04-05]</p>
	30 May 2005	<p>Report of the Independent Committee of Experts for the Review on the Management, Planning and Conduct of Elections published in May 2005 [the Report of Experts Committee]</p> <p>Press statement of the Acting Chief Executive concerning the Report of the Experts Committee [LC Paper No. CB(2)1498/04-05(01)]</p> <p>Statement of the Secretary for Constitutional Affairs concerning the Report of the Experts Committee [LC Paper No. CB(2)1498/04-05(02)]</p> <p>Administration's paper on the Report of the Experts Committee [LC Paper No. CB(2)1670/04-05(01)]</p> <p>Background brief prepared by LegCo Secretariat on "Review of the conduct</p>

<u>Meeting</u>	<u>Meeting Date</u>	<u>Papers/Motion/Council Question</u>
		of the 2004 Legislative Council election" [LC Paper No. CB(2)1673/04-05(03)] Minutes of meeting [LC Paper No. CB(2)2452/04-05]