

立法會
Legislative Council

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LC Paper No. CB(2)2154/09-10
(These minutes have been seen
by the Administration)

**Subcommittee on Package of Proposals for the
Methods for Selecting the Chief Executive
and for Forming the Legislative Council in 2012**

**Minutes of the fourth meeting
held on Tuesday, 18 May 2010, at 8:30 am
in the Chamber of the Legislative Council Building**

- Members present** :
- Hon TAM Yiu-chung, GBS, JP (Chairman)
 - Hon Jeffrey LAM Kin-fung, SBS, JP (Deputy Chairman)
 - Hon Albert HO Chun-yan
 - Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
 - Dr Hon Margaret NG
 - Hon CHEUNG Man-kwong
 - Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
 - Dr Hon Philip WONG Yu-hong, GBS
 - Hon LAU Kong-wah, JP
 - Hon Miriam LAU Kin-ye, GBS, JP
 - Hon Emily LAU Wai-hing, JP
 - Hon Abraham SHEK Lai-him, SBS, JP
 - Hon Audrey EU Yuet-mee, SC, JP
 - Hon WONG Kwok-hing, MH
 - Hon Andrew LEUNG Kwan-yuen, SBS, JP
 - Hon CHEUNG Hok-ming, GBS, JP
 - Hon WONG Ting-kwong, BBS, JP
 - Prof Hon Patrick LAU Sau-shing, SBS, JP
 - Hon Cyd HO Sau-lan
 - Dr Hon LAM Tai-fai, BBS, JP
 - Dr Hon Priscilla LEUNG Mei-fun
 - Hon IP Wai-ming, MH
 - Hon IP Kwok-him, GBS, JP
 - Hon Paul TSE Wai-chun
- Members absent** :
- Hon WONG Yung-kan, SBS, JP
 - Hon Timothy FOK Tsun-ting, GBS, JP
 - Hon LEE Wing-tat
 - Hon Ronny TONG Ka-wah, SC
 - Hon WONG Kwok-kin, BBS
 - Hon Mrs Regina IP LAU Suk-ye, GBS, JP
 - Dr Hon PAN Pey-chyou

- Public Officers attending** : Mr Stephen LAM Sui-lung
Secretary for Constitutional and Mainland Affairs
- Ms Adeline WONG Ching-man
Under Secretary for Constitutional and Mainland Affairs
- Mr Joshua LAW Chi-kong
Permanent Secretary for Constitutional and Mainland Affairs
- Mr Arthur HO Kin-wah
Deputy Secretary for Constitutional and Mainland Affairs
- Ms Joyce HO Kwok-shan
Principal Assistant Secretary for Constitutional and Mainland Affairs
- Clerk in attendance** : Miss Flora TAI
Chief Council Secretary (2)3
- Staff in attendance** : Mr Arthur CHEUNG
Senior Assistant Legal Adviser 2
- Ms Clara TAM
Assistant Legal Adviser 9
- Ms Amy YU
Senior Council Secretary (2)3
- Mrs Fanny TSANG
Legislative Assistant (2)3

Action

I. Meeting with the Administration

[Package of Proposals for the Methods for Selecting the Chief Executive ("CE") and for Forming the Legislative Council ("LegCo") in 2012, LC Paper Nos. CB(2)1422/09-10(01) and CB(2)1555/09-10(01)]

The Subcommittee deliberated (index of proceedings attached at **Annex**).

Follow-up actions required

- Admin 2. With reference to the Administration's paper on the seat-to-population ratio of overseas legislatures [LC Paper No. CB(2)1555/09-10(01)], the Administration was requested to provide supplementary information on -
- (a) the election methods for returning the seats in the legislatures concerned, including information on any seats being reserved for certain sectors;

Action

- (b) the respective number of people represented by each functional constituency Member of the Legislative Council ("LegCo"); and
- (c) the relevant seat-to-population ratios of major cities.

Clerk/
SALA2

3. The LegCo Secretariat was requested to provide information on -
 - (a) the composition of each term of LegCo since the introduction of indirect election in 1985; and
 - (b) the reservation made against Article 25(b) of the International Covenant on Civil and Political Rights including the views of the United Nations Human Rights Committee on the issue, the Administration's position and the relevant court judgments.

II. Any other business

Arrangements for receiving public views

Clerk

4. Members agreed that, in addition to the meeting on 22 May 2010, the Subcommittee would also receive public views on the Administration's "Package of Proposals for the Methods for Selecting the Chief Executive and for Forming the Legislative Council in 2012" at the following two meetings -
 - (a) Tuesday, 25 May 2010, from 2:30 pm to 7:30 pm; and
 - (b) Saturday, 29 May 2010, from 9:00 am to 1:00 pm.
5. The Clerk was instructed to invite organizations/individuals that indicated their wish to present views to the Subcommittee after the expiry of the deadline of 14 May 2010 to make written submissions.
6. The meeting ended at 10:37 am.

Council Business Division 2
Legislative Council Secretariat
4 August 2010

**Proceedings of the fourth meeting of the
Subcommittee on Package of Proposals for the
Methods for Selecting the Chief Executive
and for Forming the Legislative Council in 2012
on Tuesday, 18 May 2010, at 8:30 am
in the Chamber of the Legislative Council Building**

Time Marker	Speaker(s)	Subject(s)	Action required
000505 - 002135	Chairman Ms Audrey EU Ms Emily LAU Clerk Mr IP Kwok-him Mr Jeffrey LAM Mrs Sophie LEUNG Mr WONG Ting-kwong Dr Margaret NG	Discussions on the arrangements for receiving public views. Members' agreement to scheduling two additional meetings for receiving public views. The Chairman's instruction that organizations/individuals that indicated their wish to present their views after the expiry of the deadline of 14 May 2010 be invited to provide written submissions. Members raised no objection to the above arrangement, but Ms Audrey EU put down a marker that she might seek a re-visit of the issue should the new development so warrant.	Clerk (para 4 of minutes) Clerk (para 5 of minutes)
002136 - 002844	Chairman Administration Ms Emily LAU	With reference to the Administration's paper providing information on the seat-to-population ratio of overseas legislatures [LC Paper No. CB(2)1555/09-10(01)], Ms Emily LAU's views that - (a) the seat-to-population ratio of the Legislative Council ("LegCo") of 1:116 728 as shown in the paper conveyed the perception that each LegCo Member was representative of about 117 000 members of the public, which did not accord with the reality as only half of all LegCo Members were returned by geographical constituencies ("GCs") through direct elections; and (b) footnotes should be added to explain the composition of seats of the legislatures concerned. The Administration's response that - (a) the information was intended to show the ratio between the total number of seats in the legislatures and the population concerned; and (b) the information was provided in response to the request of Mr Ronny TONG, who had not requested for a breakdown of the seats of the legislatures concerned by electoral methods.	
002845 - 003117	Ms Audrey EU Chairman Administration	Ms Audrey EU's request for the Administration to provide information on the election methods for returning the seats in the overseas legislatures concerned.	Admin (para 2 of minutes)

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003118 - 003242	Chairman Mr Paul TSE	Views of Mr Paul TSE that - (a) while Members returned by functional constituencies ("FCs") were not elected by the general public, they serviced not only their respective sectors but also the community at large; and (b) the view that FC Members should not be included in calculating the seat-to-population ratio was unacceptable.	
003243 - 003747	Chairman Ms Miriam LAU Administration	Ms Miriam LAU's views that - (a) the Administration should also include in its response the number of people represented by each FC Member, pointing out that the Transport FC represented some 300 000 people; and (b) the proposed increase of LegCo seats from 60 to 70 was inadequate. Noting that Singapore, with a population of some 4.7 million, had 94 seats in its legislature, the number of seats in LegCo should be increased to at least 120. The Administration's response that - (a) FC Members had been serving the public conscientiously. While certain FCs comprised only corporate voters, the FC Members concerned had broad representativeness; and (b) the number of LegCo seats should be increased in a gradual manner. The proposed increase from 60 to 70 seats already represented an increase of about 17%, and it would be too drastic to increase the number of seats by one-third to 80 in one-go. Any further increase in the number of LegCo seats could be dealt with by the fifth-term LegCo and the sixth-term LegCo before the implementation of universal suffrage for LegCo in 2020.	Admin (para 2 of minutes)
003748 - 004441	Chairman Dr Margaret NG Administration	Dr Margaret NG's views that - (a) FCs should not exist at all in the ultimate model for universal suffrage; (b) the crux of the problem with FC Members was that they were not accountable to the public who had no power to vote them out if their performance was found to be unsatisfactory; and (c) before the current-term Government, there was general consensus that universal suffrage for LegCo meant the election of all Members by way of one-person-one-vote and it was only a question of when universal suffrage should be implemented. However, after the commencement of the current-term Government in	

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		<p>2007, there were views that the FC system could be retained when universal suffrage was implemented.</p> <p>The Administration's response that -</p> <p>(a) the view that the FC seats should be retained in some form when universal suffrage for LegCo was implemented was not first raised during the current-term Government. Such a view had been put forth when the Commission on Strategic Development started the discussions on the roadmap, timetable and models for universal suffrage in November 2005; and</p> <p>(b) LegCo was formed according to the Basic Law ("BL"); GC and FC Members alike enjoyed the same constitutional role as representatives of Hong Kong people.</p> <p>Dr Margaret NG pointed out that Mr ZHANG Xiaoming, the Vice-Minister of the Hong Kong and Macao Affairs Office, had openly stated in 2007 that FCs represented some 90% of Hong Kong's total gross domestic products and as such should be retained. This represented the official position of the Central Authorities on the question of FC.</p>	
004442 - 004856	Chairman Mr IP Kwok-him Mr WONG Ting-kwong	<p>Mr IP Kwok-him's views that -</p> <p>(a) the Administration should also provide information on the seat-to-population ratios of major cities, having regard to Hong Kong's status as a Special Administrative Region; and</p> <p>(b) LegCo was constituted according to BL and both FC and GC Members had their respective representativeness.</p> <p>Mr WONG Ting-kwong's view that FCs should not be vilified.</p>	Admin (para 2 of minutes)
004857 - 005509	Chairman Mr Albert HO Administration	<p>Referring to the report submitted by the Hong Kong Special Administrative Region ("HKSAR") Government to the United Nations ("UN") in the light of the International Covenant on Civil and Political Rights ("ICCPR") in 1999, wherein it was stated that FCs were transitional and the ultimate aim, as provided for in BL68, was the election of all members of LegCo by universal suffrage, Mr Albert HO sought clarification as to whether it was still the Administration's stance that the FC system was only a transitional arrangement.</p> <p>The Administration's response that -</p> <p>(a) the consistent position of the HKSAR Government was that the existing electoral method for the FCs of the LegCo did not comply with the principles of universality and equality. The existing electoral arrangements could not be maintained when universal suffrage for the LegCo was implemented; and</p>	

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		(b) universal suffrage for the Chief Executive ("CE") and LegCo would be implemented in accordance with BL, the principles of universality and equality, and the timetable set out in the decision made by the Standing Committee of the National People's Congress ("NPCSC") on 29 December 2007 on issues relating to the methods for selecting CE and for forming LegCo in 2012 and on issues relating to universal suffrage ("the 2007 NPCSC Decision").	
005510 - 005633	Chairman Dr Philip WONG	Dr Philip WONG's views that FC Members did not serve only their sectors, and constitutional development should accord with the actual situation in Hong Kong.	
005634 - 010146	Chairman Mrs Sophie LEUNG	Mrs Sophie LEUNG's views on the importance of compromise in politics, and that Members should discuss the Administration's proposals in a rational manner with a view to forging a consensus and bringing about democratic progress.	
010147 - 010856	Chairman Mr CHEUNG Man-kwong Administration	<p>Referring to the relevant HKSAR Government's report under ICCPR mentioned earlier on by Mr Albert HO, Mr CHEUNG Man-kwong's view that as it was submitted to UN through the Central Authorities, it was in effect an undertaking by the Central Authorities to the international community that the FC system was transitional only, and such undertaking could not be retracted.</p> <p>The Administration's response that -</p> <p>(a) The Central People's Government had not yet ratified ICCPR and the said report was submitted to UN through the Ministry of Foreign Affairs;</p> <p>(b) Hong Kong would have universal suffrage because of BL and not ICCPR. The most important undertaking for the implementation of universal suffrage in Hong Kong lay in BL45 and BL68 and the 2007 NPCSC Decision. According to the 2007 NPCSC Decision, universal suffrage for CE might be implemented in 2017 and that for LegCo in 2020. The Administration had also made it clear that future universal suffrage model should comply with BL and the principles of universality and equality; and</p> <p>(c) the Central People's Government had notified the UN Secretary-General in clear terms in June 1997 that the provisions of the ICCPR as applied to Hong Kong would remain in force beginning from 1 July 1997. In other words, those provisions which did not apply to Hong Kong (including Article 25(b) of ICCPR for which a reservation had been made by the United Kingdom Government in 1976) would not be applied to HKSAR. The court had also ruled in 2009 that such reservation continued to apply to HKSAR.</p>	

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010857 - 011434	Chairman Ms Audrey EU Mrs Sophie LEUNG Administration	<p>Ms Audrey EU's remark that the United Nations Human Rights Committee had pointed out that once direct election was introduced into LegCo, the Hong Kong Government could no longer rely on the reservation made against Article 25(b) of ICCPR.</p> <p>Ms EU's enquiry on whether there were overseas legislatures with certain seats reserved for the commercial sectors.</p> <p>The Administration's response that -</p> <p>(a) the composition of a legislature was a reflection of the historical background and social environment of the jurisdiction concerned. In Singapore, there were special arrangements for ensuring the representation of ethnic minorities in the legislature; in the upper houses of Canada and the United Kingdom, some of the seats were hereditary or filled by appointment. In Hong Kong, the FC system was introduced in 1985 as a means of enabling major sectors such as the industrial, commercial, professional and labour sectors to be appropriately represented in LegCo; and</p> <p>(b) as the abolition or retention of FC was a controversial issue, the community and LegCo were unlikely to reach consensus at the present stage. To enhance the democratic elements of the FC elections in 2012, the Administration had put forth the District Council ("DC") proposal (i.e. five new FC seats and the existing DC FC seat to be returned through election by elected DC members from among themselves). Should the proposal be implemented, close to 60% of all the seats in LegCo would be returned by direct or indirect geographical elections.</p> <p>Ms EU's view that information on seats being reserved for certain sectors in the overseas legislatures concerned should also be included in the Administration's response.</p>	Admin (para 2 of minutes)
011435 - 012148	Chairman Dr Margaret NG Administration	<p>Dr Margaret NG's view that the Administration's DC proposal, under which six DC members would be indirectly elected into LegCo, was retrogressive because indirect election was introduced in LegCo back in 1985, when 12 seats were returned by an Electoral College comprising all members of the two Municipal Councils (the Urban Council and the Regional Council) and the former District Boards.</p> <p>Dr NG's request for the Secretariat to prepare information on the composition of each term of LegCo since the introduction of indirect election in 1985.</p> <p>The Administration's response that the Administration's DC proposal was not retrogressive because -</p> <p>(a) in 1985, appointed members of the two Municipal Councils and the District Boards could vote in the</p>	

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		<p>election to return LegCo members whereas under the Administration's current proposals, only elected DC members could vote; and</p> <p>(b) the elected DC members had an electorate base of more than 3.3 million registered voters and their enhanced participation in the LegCo election would increase the representativeness of the election.</p>	
012149 - 012913	Chairman Mr Albert HO Administration	<p>Mr Albert HO's view that it was misleading for the Administration to claim that the DC proposal could enhance the representatives of LegCo on the basis that the elected DC members had an electorate base of 3.3 million registered voters, for the following reasons -</p> <p>(a) DC members were elected by voters of small constituencies to deal with district matters and were accountable to their voters only for such matters; and</p> <p>(b) if the Administration's rationale was tenable, it could also claim that all those FC seats which were returned indirectly by corporate voters were representative of all the people belonging to those bodies. A truly democratic and representative government should be elected directly on a one-person-one-vote basis.</p> <p>The Administration's response that -</p> <p>(a) although each elected DC member represented an average of about 17 400 persons, the 405 elected DC members altogether represented an electorate base of 3.37 million registered voters;</p> <p>(b) while DC members were entrusted to deal with district matters, such matters were of considerable importance to their electors;</p> <p>(c) DC was the cradle for nurturing political talents. Indeed, quite a number of incumbent LegCo Members were also DC members;</p> <p>(d) it was not appropriate to compare the 405 elected DC members with corporate voters, as the former had a electorate base of more than 3.3 million registered voters; and</p> <p>(e) the Administration had not said that the model for implementing universal suffrage would be based on indirect elections; it only stated that the electorate base of elected DC members was the same as that of the direct geographical elections of LegCo.</p>	
012914 - 013509	Chairman Ms Cyd HO Administration	Ms Cyd HO's clarification that in the legislature of Singapore, some seats were returned through the "single-seat-single-vote" system and some through the list proportional representation system. In respect of the latter, each candidate list must	

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		<p>contain at least one ethnic minority candidate and one female candidate. Unlike the FC seats, all seats in the Singapore legislature were returned by way of one-person-one-vote.</p> <p>Ms Cyd HO's expression of reservation with the DC proposal. Her elaboration that given the differences in the functions and powers of DCs and LegCo, voters would be confused as to the criteria to be adopted for choosing DC members. Allocating the new FC seats to DC members will make LegCo a forum for dealing with district matters. Her enquiry on whether the DC proposal, if implemented, would necessitate any changes to BL under which only district organizations which were not organs of political power might be established.</p> <p>The Administration's response that -</p> <ul style="list-style-type: none"> (a) many district matters had been raised for discussion in LegCo by incumbent LegCo Members, for instance the Hong Kong section of the High Speed Rail; and (b) it was not necessary to amend BL to implement the DC proposal. Should the Administration's proposed amendments to Annex II to BL be passed by LegCo and after relevant amendments had been made to the LegCo Ordinance (Cap. 542), the six DC FC seats could be returned by elected DC members from among themselves. 	
013510 - 014313	Ms Emily LAU Chairman Administration	<p>Ms Emily LAU's concurrence with Dr Margaret NG's view that the Secretariat should be requested to provide information on the composition of LegCo since election was introduced into LegCo in 1985.</p> <p>Ms LAU's request for the LegCo Secretariat to provide background information on the reservation made against Article 25(b) of ICCPR, including the views of the UN Human Rights Committee on the issue, the Administration's position and the relevant court judgments.</p> <p>The Administration's reiteration that the Central People's Government had notified the UN Secretary-General in clear terms in June 1997 that the provisions of the ICCPR as applied to Hong Kong would remain in force beginning from 1 July 1997. In other words, those provisions which did not apply to Hong Kong (including Article 25(b) of ICCPR for which a reservation had been made by the United Kingdom Government in 1976) would not be applied to HKSAR.</p> <p>Ms LAU's reiteration of the point that the UN Human Rights Committee had pointed out that once direct election was introduced into LegCo, the Hong Kong Government could no longer rely on the reservation in respect of paragraph (b) of Article 25 of the ICCPR.</p> <p>Ms LAU's views that as DC members were elected from very small constituencies, their vision was too narrow; and</p>	

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		<p>consideration should be given to expanding the DC constituencies so that DC members would have the need to balance divergent interests of the wider sectors of the community.</p> <p>The Administration's response that should the DC proposal be implemented, the six DC members elected to LegCo would have to balance the wider interests of the community and local interests.</p>	
014314 - 015050	Chairman Mr Paul TSE Ms Audrey EU Dr Margaret NG	<p>Mr Paul TSE's view that many FC Members served not only their respective sectors, but also the wider community and his observation about some recent political phenomena.</p> <p>Point of order raised by Ms Audrey EU.</p>	
015051 - 015659	Chairman Mr IP Kwok-him Mr Albert HO	<p>Mr IP Kwok-him's disagreement with the view that the vision of DC members focused only on district matters, pointing out that many incumbent LegCo Members had also been/were serving as DC members.</p> <p>Mr IP considered the DC proposal acceptable as it was a pragmatic proposal for enhancing the representativeness of the LegCo election within the framework of the 2007 NPCSC Decision.</p>	
015700 - 015909	Chairman Administration	<p>Briefing by the Administration on its paper entitled "Possible options for the voting system for the LegCo DC FC in 2012" tabled at the meeting (issued vide LC Paper No. CB(2)1577/09-10(01) on 18 May 2010).</p>	
015910 - 020215	Chairman Ms Audrey EU Mr Paul TSE	<p>Ms Audrey EU's view that the adoption of different election methods for returning LegCo seats could aggravate conflicts within the legislature and was divisive.</p>	
020216 - 020302	Chairman Ms Emily LAU	<p>The Chairman's advice that he would follow-up with the LegCo Secretariat on the information sought by Dr Margaret NG and Ms Emily LAU.</p>	<p>Clerk /SALA2 (para 3 of minutes)</p>