LC Paper No. CB(2)727/09-10(01)

Panel on Constitutional Affairs

List of outstanding items for discussion
(*position as at 12 January 2010)*

		Proposed timing for discussion
1.	**The question of "important bill" under Article 50 of the Basic Law**	
	The Panel discussed the question of "important bill" under Article 50 of the Basic Law at a number of meetings since late 1999. The Panel noted the Administration's position on the following issues - (a) what constitutes an "important bill"; (b) who determines whether a bill is important; (c) when to determine whether a bill is important; and (d) procedures and parties involved in the consultations under Article 50. Given the Administration's position, the Chairman sought the views of members on the way forward at the meeting on 18 July 2005 when the item was last discussed. Hon Audrey EU suggested and members agreed that the item should remain on the outstanding list. At the meeting on 20 November 2006, members noted the background brief on the past discussions of members and developments subsequent to the meeting on 18 July 2005 prepared by the Legislative Council (LegCo) Secretariat (LC Paper No. CB(2)376/06-07(02)), and expressed no strong view on the timing for discussing the item.	To be decided by the Panel
2.	**Constitutional development**	
	On 12 December 2007, the Administration published The Report on Public Consultation on Green Paper on Constitutional Development. The Chief Executive (CE) submitted a report to the Standing Committee of the National People's Congress (NPCSC) on the same day. The Panel discussed the two reports at its meetings on 17 and 19 December 2007. On 29 December 2007, NPCSC promulgated its decision on issues relating to the methods for selecting CE and forming LegCo in 2012 and on issues relating to universal suffrage. At the meeting on 17 December 2007, members deliberated on the CE's Report.	On-going discussion

In February 2008, CE set up a task group on constitutional development under the Commission on Strategic Development to study possible options for electing CE and for forming LegCo in 2012, within the framework set out by NPCSC's decision. The task group concluded its discussion in June 2008. Separately, at three meetings held on 17 March, 21 April and 19 May 2008, the Administration listened to the views of Panel members on the two electoral methods for 2012. The Administration advised that it would, within the first half of 2009, consult the public on possible options for amending the methods for electing CE and for forming LegCo in 2012.

In January 2009, the Administration decided to defer the public consultation on the electoral arrangements for 2012 on the grounds that the public would be primarily concerned about economic and livelihood issues in the face of the financial tsunami. At the Panel's request, the Administration briefed members on the working timetable for relevant public consultation and legislative process at the meeting on 16 February 2009. The Consultation Document on Methods for Selecting the Chief Executive and for Forming the Legislative Council in 2012 was published on 18 November 2009. The Panel held a special meeting on 26 November 2009 to discuss the Consultation Document and received public views at another special meeting on 5 December 2009.

3. Role and development of political parties

The Panel held a discussion on the need to introduce a political party law at its meeting on 21 February 2005 and received views from deputations on the role and development of political parties at a special meeting on 26 February 2005.

To be decided by the Panel

The Administration's position was that the introduction of a political party law would hinder the development of political parties. As one of the means to facilitate the development of political party and political talent, the Administration had extended the financial assistance scheme applicable to candidates in LegCo elections to candidates in the 2007 District Council elections and increased the subsidy rate to $11 per vote.

4. Composition, functions and operation of the Electoral Affairs Commission (EAC)

On 21 June 2004, the Research Report prepared by the Research and Library Services Division of the LegCo Secretariat (RLSD) on "Operation of Electoral Regulatory Bodies in Selected Places" (RP04/03-04) was presented to the Panel. Members agreed to

To be decided by the Panel

further explore the issues raised in the Research Report in future.

5. Usage of electoral register

In September 2007, Hon Margaret NG requested the Panel to discuss whether the Administration should review and amend the relevant subsidiary legislation to allow Members returned by election to use the relevant information in the electoral register for communication with their constituents while they were in office, and to require corporate and professional bodies of Functional Constituencies (FCs) to provide the necessary assistance to FC Members.

To be decided by the Panel

The Panel followed up the issue at its meetings on 17 November 2007 and 18 February 2008. In response to members' request, RLSD had prepared an Information Note on "Usage of electoral register" (IN05/07-08) which was considered by the Panel on 18 February 2008. At the meeting, some members expressed the view that the information contained in the electoral register should be released for use for purposes other than a purpose related to an election, e.g. to communicate with electors after the election. The Administration undertook to relay members' views to EAC for consideration.

6. *Submission of reports by the Hong Kong Special Administrative Region Government to the United Nations under international human rights treaties

The Administration advised in March 2009 that Central People's Government (CPG) had commenced the preparation of China's combined third and fourth report under the Convention on the Rights of the Child (CRC), and the HKSAR Government would submit to CPG the second report of HKSAR for incorporation into China's report. The Panel discussed the outline of the second report of HKSAR on 16 April 2009 and met with deputations and the Administration on 18 May 2009.

As and when those reports are submitted by China to UN and published

Constitutional and Mainland Affairs Bureau (CMAB) & LWB

China is preparing its second report under the International Covenant on Economic, Social and Cultural Rights (ICESCR) to the United Nations (UN) which will include the third report of HKSAR. The Administration will brief the Panel on the outline of topics to be included in HKSAR's third report on 18 January 2010. The Panel is tentatively scheduled to receive views from the public on the outline of topics at the regular meeting in February 2010.

January and February 2010

The third report of HKSAR under the International Covenant on Civil and Political Rights (ICCPR) is expected to be due in 2010.

China's 10th to 13th combined report under the International

Convention on the Elimination of All Forms of Racial Discrimination (ICERD), of which the report on HKSAR formed a part, was submitted to UN in June 2008. After discussion of the report on HKSAR at its meeting held on 15 December 2008, the Panel further discussed the subject and received views from the public on 15 June 2009. UN hearing was held in August 2009. The Administration briefed the Panel on its initial views on matters raised in the concluding observations on 16 November 2009 and received views from the public on the concluding observations on 11 December 2009.

UN Human Rights Council has initiated a Universal Periodic Review (UPR) of all UN member states. The hearing on China, which covered HKSAR, was held on 9 February 2009. The Panel discussed the section on HKSAR of the report of CPG to UN on 19 January 2009 and the Administration reported outcome of the UN hearing to the Panel on 7 July 2009. The next report on UPR will be due in 2013.

19 March 2010

The third report of HKSAR under the Convention on the Elimination of All Forms of Discrimination Against Women, the reporting responsibility of which falls under the purview of the Labour and Welfare Bureau (LWB), will be part of China's 7th and 8th combined report which is due for submission by September 2010. The Administration has proposed that the Panel should discuss and receive views from the public on the outline of topics to be included in the third report at the regular meeting in March 2010.

19 March 2010

Under the Convention on the Rights of Persons with Disabilities, HKSAR (the reporting responsibility falls under the purview of LWB) will submit a report as part of China's combined report to UN within two years after the entry into force of the Convention for HKSAR on 31 August 2008, i.e. August 2010. Thereafter, HKSAR is required to submit subsequent reports at least every four years. The Administration has proposed that the Panel should discuss and receive views from the public on the outline of topics to be included in the initial report at the regular meeting in March 2010.

The Administration's second report on implementation of international human rights treaties in Hong Kong in 2004 was issued vide LC Paper No. CB(2)2403/04-05(01) dated 1 August 2005.

7. *Review of the Personal Data (Privacy) Ordinance (Cap. 486)

The Government, with the support of the Privacy Commissioner for Personal Data, has conducted a comprehensive review of the Personal Data (Privacy) Ordinance ("PDPO") to examine whether its existing

To be confirmed by CMAB

provisions still afford adequate protection to personal data having regard to developments, including advancement in technology, over the last decade or so. The Government published the Consultation Document on Review of the Personal Data (Privacy) Ordinance on 28 August 2009 to invite public views on the proposals to amend the PDPO. The Panel was briefed on the Consultation Document at its special meeting on 11 September 2009. The consultation period ended on 30 November 2009. The Administration has undertaken to revert to the Panel on the consultation results.

8. *Amendments to the Sex Discrimination Ordinance (SDO) and the Disability Discrimination Ordinance (DDO) proposed by the Equal Opportunities Commission (EOC)

The Race Discrimination Bill (RDB) passed on 10 July 2008 has incorporated one of the amendments proposed by EOC, i.e. to extend the definition of sexual harassment in SDO to cover conduct which created a sexually hostile or intimidating environment at an educational establishment. As regards the other amendments proposed by EOC, the Administration has pointed out that some of them are technical amendments and the others might have read-across implications to other anti-discrimination ordinances. The Administration would consider the most appropriate way to take forward these proposed amendments and would further report progress to the relevant Panel in due course.

To be confirmed CMAB & LWB

9. *Management of public records - issues relating to access to information

The HA Panel agreed at its meeting on 11 May 2007 to discuss the management of public records from the perspective of access to information.

To be confirmed CMAB and Administration Wing (Chief Secretary for Administration's Office)

10. *Issues relating to the Equal Opportunities Commission

<u>Proposed establishment of an Equal Opportunities Tribunal</u>

The Bills Committee on RDB (the Bills Committee) noted that EOC was looking at the possibility of establishing an Equal Opportunities Tribunal, with informal procedures and active case management functions, so as to make the adjudication process speedy and more accessible. EOC has submitted their recommendation to the

To be confirmed by CMAB

Administration for consideration. It was agreed that the issue should be referred to this Panel for follow-up.

Meeting with the Chairperson of the Equal Opportunities Commission	To be decided by the Panel

In her letter dated 19 October 2009 (LC Paper No. CB(2)275/09-10(03), Hon Emily LAU proposed that the Chairperson of the Equal Opportunities Commission be invited to brief the Panel on his work at an appropriate time.

11. Administrative guidelines on promotion of racial equality

The Administration consulted the Panel on the draft administrative guidelines on promotion of racial equality on 7 July 2009. At the Panel meetings in October and December 2009, the Administration reported the implementation progress and briefed members on the draft checklists on existing and planned measures on the promotion of equality for ethnic minorities prepared by relevant bureaux, departments and public authorities in key public service areas. The Administration will finalise the guidelines and the checklists after taking into account the views received. — To be confirmed by CMAB

12. District Council (DC) election

Hon Emily LAU raised an oral question on population of DC constituencies at the Council meeting held on 3 December 2008. She considered that the population quota of DC constituencies should be raised and the proportional representation system should be adopted for returning DC members. The Administration explained that if the two measures were adopted at the same time, individual candidates would need to devote more resources to compete for seats with other candidates in the larger constituencies. This would raise the barrier for individual candidates to take part in elections, especially those who were independent and had no political affiliation. Ms LAU proposed that the Panel should follow up relevant issues at a future meeting. — 2nd quarter 2010

The Administration advised at the Panel meeting in October 2009 that the number of elected seats for the fourth-term DCs would be reviewed, pending availability of the population projections for 2011.

13. Discrimination issues relating to sexual orientation and gender identity

Duty Roster Members met with a deputation on 7 May 2009 — 18 January 2010

regarding its request for legislation against discrimination on grounds of sexual orientation. Duty Roster Members have suggested that the Panel should set up a subcommittee to follow up the relevant issues. The referral from the Complaints Division was issued vide LC Paper No. CB(2)1544/08-09(01). The Administration undertook to provide a paper for discussion at the beginning of the new legislative session.

14. Post-office employment control of politically appointed officials

The Panel on Public Service (the PS Panel) discussed the Report of the Committee on Review of Post-Service Outside Work for Directorate Civil Servants (the Review Committee) at its special meeting on 13 July 2009. The Review Committee has recommended to the Chief Executive in its Report that a separate review should be carried out on the post-office employment control of politically appointed officials. The PS Panel has agreed to refer the subject to this Panel for follow-up and requested that its members be invited to join the future discussion of the subject.

To be confirmed by CMAB

15. Meeting with the Privacy Commissioner for Personal Data

In her letter dated 19 October 2009 (LC Paper No. CB(2)275/09-10(03)), Hon Emily LAU proposed that the Privacy Commissioner for Personal Data be invited to brief the Panel on his work at an appropriate time.

To be decided by the Panel

* In the last term, these issues fell within the purview of the HA Panel.

Council Business Division 2
Legislative Council Secretariat
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