

立法會
Legislative Council

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Panel on Constitutional Affairs

Minutes of special meeting
held on Wednesday, 9 May 2012, at 8:30 am
in Conference Room 1 of the Legislative Council Complex

Members present : Hon TAM Yiu-chung, GBS, JP (Chairman)
Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP (Deputy Chairman)
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon CHEUNG Man-kwong
Dr Hon Philip WONG Yu-hong, GBS
Hon WONG Yung-kan, SBS, JP
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 LEE Wing-tat
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon CHEUNG Hok-ming, GBS, JP
Hon WONG Ting-kwong, BBS, JP
Hon CHIM Pui-chung
Hon Cyd HO Sau-lan
Dr Hon LAM Tai-fai, BBS, JP
Hon CHAN Kin-por, JP
Dr Hon Priscilla LEUNG Mei-fun, JP
Hon WONG Kwok-kin, BBS
Hon IP Kwok-him, GBS, JP
Hon Paul TSE Wai-chun, JP
Dr Hon Samson TAM Wai-ho, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Hon WONG Yuk-man

Members attending : Hon LEE Cheuk-yan
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon KAM Nai-wai, MH
Hon Starry LEE Wai-king, JP
Hon Paul CHAN Mo-po, MH, JP
Hon Albert CHAN Wai-yip

Members absent : Hon Albert HO Chun-yan
Dr Hon Margaret NG
Hon LAU Wong-fat, GBM, GBS, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon Ronny TONG Ka-wah, SC
Hon Mrs Regina IP LAU Suk-ye, GBS, JP

Public Officers attending : Office of the Chief Executive-elect

Mrs Fanny LAW FAN Chiu-fun
Head of the Chief Executive-elect's Office

Ms Alice LAU Yim
Secretary-General of the Chief Executive-elect's Office

Constitutional and Mainland Affairs Bureau

Mr Raymond TAM Chi-yuen
Secretary for Constitutional and Mainland Affairs

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

Mr Gordon LEUNG Chung-tai
Deputy Secretary for Constitutional and Mainland Affairs

Mr Freely CHENG Kei
Principal Assistant Secretary for Constitutional and Mainland Affairs

Civil Service Bureau

Mrs Ingrid YEUNG HO Poi-yan
Deputy Secretary for the Civil Service

Clerk in attendance : Miss Flora TAI
Chief Council Secretary (2)3

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

Miss Cindy HO
Senior Council Secretary (2)3

Ms Wendy LO
Council Secretary (2)3

Mrs Fanny TSANG
Legislative Assistant (2)3

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I. Re-organisation of the Government Secretariat
[LC Paper Nos. CB(2)1908/11-12(01) and IN25/11-12]

At the invitation of the Chairman, Secretary for Constitutional and Mainland Affairs ("SCMA") briefed the Panel on the implementation time frame of the Administration's proposal of re-organisation of the Government Secretariat. Members were advised that the Administration had served a notice for moving a resolution on 20 June 2012 under section 54A of the Interpretation and General Clauses Ordinance (Cap. 1) to effect the transfer of statutory functions pursuant to the proposed re-organisation. The proposed resolution provided that, with effect from 1 July 2012, the functions currently exercisable by a certain public officer by virtue of the ordinances set out in the resolution would be transferred to another public officer who would take charge of the relevant policy responsibilities following the re-organisation of the Government Secretariat. The Administration would submit the proposal to the Establishment Subcommittee and the Finance Committee for endorsement/funding approval in June 2012.

2. Head of the Chief Executive-elect's Office ("H/CEEO") explained the changes to the government structure as envisioned by the Chief Executive-elect ("CE-elect") to facilitate implementation of the priority policy initiatives pledged during the Chief Executive ("CE") Election, as follows –

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- (a) two Deputy Secretary of Department ("DSoD") posts would be created to share the workload of Chief Secretary for Administration ("CS") and Financial Secretary ("FS"). A new rank of DSoD would be created, and the monthly salary of the DSoD rank would be pitched midway between that of the Secretary for Justice and Director of Bureaux ("DoBs");
- (b) a new Culture Bureau would be set up to take over the policy responsibilities on culture and the West Kowloon Cultural District from the Home Affairs Bureau, film and creative industries from the Commerce and Economic Development Bureau ("CEDB"), and heritage conservation from the Development Bureau ("DEVB");
- (c) the existing CEDB (less policy responsibilities on film and creative industries) would be restructured into two new bureaux, namely the Commerce and Industries Bureau ("CIB"), and the Technology and Communications Bureau ("TCB"). Policy responsibilities on the maritime, air and logistics industries would be transferred from the Transport and Housing Bureau ("THB") to the new CIB; and
- (d) the existing DEVB (less policy responsibilities on heritage preservation) and THB (less policy responsibilities on the maritime, air and logistics industries) would be restructured into two new bureaux, namely the Housing, Planning and Lands Bureau ("HPLB"), and the Transport and Works Bureau.

Issues raised by members

Timetable and public consultation

3. Ms Emily LAU, Mr WONG Yuk-man and Mr Paul TSE expressed concerns about the tight implementation timetable proposed by the Administration and queried the need for the proposed re-organisation to be implemented on 1 July 2012. They considered that the Administration should consult the public on the proposed re-organisation before implementation. They considered that there should be adequate time for the issue to be fully deliberated by the general public, a wide public consultation exercise should be conducted, and the Panel should invite views from the public on the proposals.

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4. SCMA said that the current-term government would facilitate the CE-elect to make preparation for the work of the new-term government and CE-elect needed a suitable government structure to implement his policies. H/CEEO said that the CE-elect had listened widely to the views and expectations of people and various sectors of Hong Kong in the course of campaigning. To address their concerns, CE-elect had proposed a series of major initiatives in his manifesto covering housing, poverty alleviation and economic development and for these initiatives to materialise as early as possible, a suitable government structure was needed with its policies to better address and respond to the needs of people. There was urgency for timely scrutiny by the Legislative Council ("LegCo") of the matter in order not to hold up its implementation until the next LegCo term commencing October 2012. Upon implementation of the re-organisation proposal, the new politically appointed team consisting of both current and new appointees would get together and have their organisational values and objectives aligned soon when they were all in post on 1 July 2012. To explain more fully the rationale of the re-organisation proposal and address public concerns, H/CEEO welcomed public views from various channels, including any meeting to receive public views to be arranged by the Panel. She added that the manifesto of the CE-elect, which covered the proposed re-organisation, was drawn up after consultation and visits to local districts.

5. Noting that some members were of the view that other Panels concerned should also discuss the proposed changes in line with the established practice for scrutinizing staffing proposals, Ms Emily LAU suggested that these issues should be addressed in a focused manner. Mr LEE Wing-tat said that the Panel on Housing had separately requested H/CEEO to attend the Panel meeting scheduled for 4 June 2012 for discussion on the improvement to various housing issues upon the re-organisation.

Justification for the proposed re-organisation

6. Some members, including Mr LAU Kong-wah, Mr WONG Kwok-hing, Dr Priscilla LEUNG, Ms Miriam LAU, Mr IP Kwok-him, Mr Jeffrey LAM and Mr WONG Kwok-kin expressed support for the proposed re-organisation in order to facilitate the CE-elect to implement the priority policy initiatives pledged in his election platform. They generally recognized the need for an augmented government structure as envisioned by the CE-elect to facilitate the implementation of his policies to address the

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livelihood concerns in a timely and effective manner. Mr LAU Kong-wah said that he shared the governing philosophy of the CE-elect that the government should introduce change while maintaining stability with a view to achieving a smooth functioning of the government and social harmony. Mr Jeffrey LAM and Dr Pricilla LEUNG were of the view that it was commonplace in the private sector for a chief executive officer who took office to bring in organisational changes. Mr IP Kwok-him called on the cooperation and support of other political parties to take forward the proposal. Mr WONG Kwok-hing added that a seamless transition from the incumbent government to the new-term government would enhance the capability of the government to respond to some potential socio-economic problems.

Performance pledges

7. Mr LAU Kong-wah asked if the new-term government would commit itself as to the frequency for the politically appointed team to reach out to the public upon the re-organisation. Mr CHEUNG Man-kwong suggested that the CE-elect should at least deliver performance pledges on three areas on which the CE-elect had once commented as lacking efficiency in the incumbent government, namely shortening the waiting time for public housing; strengthening economic growth; and implementing new policy measures from the Central Government on supporting Hong Kong's further development and enhancing trade and financial co-operation between Hong Kong and the Mainland.

8. H/CEEQ said that the CE-elect and his new governing team would be able to better reach out to the public so as to formulate policies and plans that would better address the needs of the public. That said, it would not be appropriate for the CE-elect's Office to draw up performance targets on behalf of the politically-appointed officials ("PAOs") before they took office on 1 July 2012. It was intended that the new governing team would have to consolidate the policy priorities of the Administration within the initial three months of the new-term government for mission alignment. The details of the implementation of policy priorities would be set out in CE's Policy Address.

9. Mr LEUNG Kwok-hung stressed that the CE-elect did not have a public mandate. He considered that the CE-elect should have drawn up the specific deliverables to be achieved by the new political team before seeking an expansion of his team. H/CEEQ said that the new Government was not

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to expand the accountability system, instead, the Political Appointment System ("PAS") would be improved in that the directors of bureaux concerned would also take part in the recruitment process to identify persons of the right aptitude and calibre to fill the posts of Under Secretaries and Political Assistants; and that young talents were encouraged to pursue a career in politics through self-nomination for political appointments as well, thereby building a reserve of talents to sustain effective governance.

Review of the Accountability System

10. Ms Emily LAU urged that the Administration should review the Accountability System (also referred to as PAS) and identify shortfalls of the existing government structure before seeking its expansion, pointing out that the outcome of the last two exercises of the re-organisation of the Government Secretariat had fallen short of public expectation. Yet, taxpayers were asked again to foot another \$72 million per year to pay for the additional posts in order to implement the proposed re-organisation. Mr Alan LEONG expressed similar views. Mr LEE Wing-tat said that the politically-appointed team would be substantially increased by 27% upon the re-organisation and he was concerned that the Administration might create more DSoD posts in future based on the same rationale that one DSoD should oversee the work of two policy bureaux. Mr LEE was of the view that enhancing communication amongst DoBs did not necessarily have to be achieved by creating an additional layer of administration.

11. SCMA said that the re-organisation would facilitate implementation of the policies of the CE-elect and the remuneration package of PAOs was currently under review. H/CEEO said that improvement to the PAS would address the problem by strengthening policy planning and coordination which would be conducive to long term development of Hong Kong. She said that the proposal would incur about 1% of the public expenditure on personal emolument which was relatively small when compared with its intended results; and she welcomed the public to continue monitoring the work of the government.

12. Dr Priscilla LEUNG said that it was the objective of PAS to bring in talents and professionals to complement the civil service when it was originally designed. In her view, the mismatch of appointees to political positions not compatible to their abilities and expertise had jeopardised the operational efficiency of PAS. Dr LEUNG also urged that there should be a clear delineation of the role of Political Assistants.

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13. Mr LAU Kong-wah suggested that performance of individual appointees under PAS should be appraised at a regular interval and their suitability for continued appointment should be reviewed through a performance appraisal system. SCMA said the performance of Under Secretaries and Political Assistants had been subject to a mid-term review for consideration of the grant of salary increments applicable to the relevant posts; and members' views would be considered in the light of operational experience.

14. Mr WONG Yuk-man asked about the details of the remuneration package for the proposed new Deputy Chief Secretary for Administration ("DCS") and Deputy Financial Secretary ("DFS") and how it was formulated by the Independent Commission on Remuneration for Members of the Executive Council and the Legislature and Officials under the PAS of the Hong Kong Special Administrative Region, as he was not aware of the circulation of papers with such information to Members. Mr WONG raised objection to the proposed changes to the appointment of Political Assistants which, in his view, were used to give political rewards to supporters of the CE-elect. SCMA reiterated that the level of cash remuneration of the remuneration package for PAOs was under review according to the established mechanism and the review result would be announced shortly.

Role and responsibilities of politically-appointed officials and civil servants

15. Mr Alan LEONG expressed concern about the unclear division of the role and responsibilities between PAOs and civil servants under PAS. He questioned the role of civil servants in undertaking political work such as explaining Government policies; and whether the workflow would be prolonged due to the proposed creation of an additional layer of administration.

16. H/CEEEO replied that the proposed reorganisation would not affect the division of work between PAOs and civil servants; and civil servants would support the work of PAOs by explaining Government policies. Undertaking such work with political content was not in conflict with the political impartiality of the civil service. H/CEEEO said that enhanced internal communication and clear division of work within the new governing team would ensure an effective conduct of business of the Administration.

Responsibilities of the two new Deputy Secretaries of Department

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17. Mr IP Kwok-him enquired about division of work of DSoDs and how they would contribute to promoting Hong Kong's development set out in the National Five-year Plans. H/CEEEO explained that given the wide span of responsibilities of CS, it was proposed that DCS would assist CS in coordinating policy formulation and implementation in policy areas pertaining to human resources (including education; manpower planning and development; welfare planning; and retirement protection), and culture. DCS would supervise three bureaux closely connected to these policy areas, namely Education Bureau, Labour and Welfare Bureau and Culture Bureau. With the support of DCS, CS could focus more on other cross-cutting policies requiring longer term planning, e.g. poverty alleviation and sustainable development; while maintaining direct supervision of six policy bureaux. On the other hand, to further promote the economic development of Hong Kong and enhance its competitiveness, it was proposed that DFS would assist FS in implementing economic cooperation agreements signed with Mainland authorities, coordinating the formulation and implementation of policies to promote Hong Kong's development set out in the national five-year plan, and supporting the further development of trade and industries, including maritime, air, logistics and tourism; as well as technology and communications. DFS would supervise two bureaux closely connected with those policy areas, namely CIB and TCB.

18. Mr LAU Kong-wah considered that there were two major issues of public concern, namely, the development of Hong Kong had become stagnant; and there was a lack of coordination among policy bureaux and government departments on cross-cutting policies and the public had a high expectation on the work of the two new DSoDs to bring about material improvements. Mr WONG Yung-kan expected that with the implementation of the proposed re-organisation, cross-cutting policy issues would be more effectively coordinated at a senior management level. Noting that the DSoDs would play a pivotal role in the implementation of policies and would have a direct supervision over the concerned bureaux, Mr Jeffrey LAM expressed that educational and cultural development under the remit of DCS would impact on the quality of Hong Kong people in the long-term; while DFS should spare no efforts in enhancing economic development of Hong Kong through strengthening the pillar industries as well as exploring the development of new industries.

19. Mr LEE Cheuk-yan, however, queried the need for creating the posts of DSoDs which, in his view, would lead to overlapping functions if not a delay in policy decision as the policy bureaux would need to route through

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an additional layer of administration. Mr LEE enquired whether the Administration had considered that its inefficiency in dealing with long-term planning work was not due to the structural problem, but the personal inadequacy and inefficiency of relevant PAOs. He considered that the expansion of the PAS was a political reward for the supporters of the CE-elect. SCMA said that Article 101 of the Basic Law had included a reference to the rank of DSoD and its proposed creation was prompted by the need arising from the increasing workload of CS and FS respectively over the years as work related to long-term development to deal with structural changes pertaining to population and industries might be compromised due to some other priorities. Accordingly, the two DSoDs would strengthen coordination of cross-cutting policy areas and formulate long-term plans, co-ordinate the formulation and implementation of policy.

20. Ms Cyd HO expressed concern that once policy responsibilities of housing and transport were transferred from CS to FS, relevant essential social and livelihood issues would be considered from the perspective of the management of public finance and public interests would be compromised in case of conflicts of interests with financial considerations. H/CEEQ assured the meeting that in formulating policy changes, both CS and FS would need to balance the interests of stakeholders with regard to the prevailing public policies.

Responsibilities amongst policy bureaux

Land planning and housing portfolio

21. Mr LAU Kong-wah and Dr Raymond HO were of the view that it was reasonable to put land planning and housing under the same bureau for smooth coordination so that more focused efforts would be put on the housing problem as soon as possible by means of more thorough planning, increased housing supply and expedited provision of public housing.

22. Mr Albert CHAN queried the rationale for the CE-elect's remark that if the proposed re-organisation could not be implemented on 1 July 2012, it would have an adverse impact on the housing development of Hong Kong. Referring to the statistics on supply of housing in both public and private sectors over the last 20 years, Mr CHAN said that the supply of housing units bore little or had no relation with the issue of whether the portfolios of land planning and housing were under the same bureau or two bureaux. He concluded that the supply of housing over the past years was a policy

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decision of the Government and it was misleading for the CE-elect to say that delay in implementing the re-organisation would have an adverse effect on the supply of housing.

23. H/CEEEO said that the land planning portfolio had been transferred from the former HPLB reporting to CS to DEVB which reported to FS since 2007, while the housing portfolio had been kept under the purview of THB reporting to CS. The proposed re-organisation sought to combine the portfolios of land planning and housing under the new HPLB reporting to the FS in order to achieve better coordination in the timing of land supply to meet the demand for both public and private housing. HPLB would also assume policy responsibilities for developing a long-term housing strategy and urban renewal as well as building maintenance and safety.

Commerce and Industries portfolio

24. Ms Miriam LAU and Mr WONG Kwok-kin expressed concerns that the maritime, aviation and logistics industries had not been given adequate policy support by the Administration. They asked which industries would be put under the purview of CIB and how the new-term government would help promote the development of industries including the "value-added logistics" industry in order to seize the opportunities provided under the National 12th Five-Year Plan to support Hong Kong in further developing and deepening its co-operation with the Mainland. Ms Miriam LAU also suggested that the title of the new CIB should be revised to reflect the importance of work of maritime, aviation, and logistics under its portfolio.

25. H/CEEEO advised that the restructuring of CEDB was proposed in response to views of the concerned sectors, in that CEDB had been heavily engaged in a wide range of policy areas; and the Maritime, Aviation, Logistics and Tourism Branch of the new CIB aimed to provide holistic support to promote the development of the maritime, aviation, logistics and travel industries in Hong Kong so as to enhance their competitiveness and increase market penetration. The CE-elect would continue to listen to views of the aviation and logistics industries on the way forward. SCMA added that the relative importance of these developments was reflected in the title of the Maritime, Aviation, Logistics and Tourism Branch of CIB which was headed by a Permanent Secretary who was designated to promote the related developments.

26. Responding to Mr Paul TSE on the implementation of Mainland/Hong Kong Closer Economic Partnership Arrangement ("CEPA") measures,

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H/CEEO advised that forging cooperation between the Hong Kong Special Administrative Region and the Mainland at a higher level to facilitate effective implementation of CEPA measures would be taken up by DSoDs in future.

Technology and Communications portfolio

27. Expressing support for the establishment of a new TCB, Mr LAU Kong-wah and Dr Priscilla LEUNG pointed out that a broad consensus had been achieved in the Council debate on a similar topic at the previous legislative session.

Culture portfolio

28. Mr LAU Kong-wah, Dr Priscilla LEUNG and Mr IP Kwok-him expressed support for the establishment of a Culture Bureau. However, Mr IP was concerned that the culture portfolio might seem to be over-generalised under the proposed structure and he emphasized the need for raising the cultural awareness of the general public, thereby building an audience for cultural development.

29. H/CEEO said that the Culture Bureau would provide a focal point and champion within the Government to devise comprehensive culture policy, promote cultural activities and exchanges, nurture talents and cultural groups, and encourage community participation. Therefore, bringing the cultural affairs under the unified structure of a new Culture Bureau would enhance policy coherence and facilitate strategic planning on culture.

Relationship with the Executive Council

30. Mr IP Kwok-him enquired how the relationship between the executive and the legislature might be enhanced upon the re-organisation. H/CEEO said that through sharing the workload of CS and FS, DSoDs would be instrumental in improving the relationship of the Administration with the Executive Council and the legislature. Besides, the Political Assistants would assist in garnering proposals and views at the early stages of policy formulation and legislative proposals, and enhancing communication with political parties.

Way forward

31. At the suggestion of the Chairman, members agreed that the Panel should recommend to the House Committee for the formation of a

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sub-committee to study the proposed legislative amendments relating to the re-organisation of the Government Secretariat so that the scrutiny work could start early; and the Panel should receive public views on the proposed re-organisation at a special meeting on 19 May 2012.

(Post-meeting Note: The Panel Chairman wrote on behalf of the Panel to the Chairman of the House Committee on the Panel's recommendation on 9 May 2012 (LC Paper No. CB(2)1973/11-12(01)) and a further special meeting was scheduled for 26 May 2012 to receive public views in view of the large number of requests to present views to the Panel.)

II. Any other business

32. The next special meeting would be held on 15 May 2012 to continue discussion of the item.

33. There being no other business, the meeting ended at 10:45 am.

Council Business Division 2
Legislative Council Secretariat
25 September 2012