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**GREEN PAPER: REVIEW OF THE POLITICAL SYSTEM IN THE
HONG KONG SPECIAL ADMINISTRATIVE REGION**

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EXECUTIVE SUMMARY

It is necessary for Hong Kong to consider constitutional reform. The Basic Law mandates change towards universal suffrage, albeit without a timetable for the complete process. Hong Kong people have expressed their demand for democracy. A responsible government must plan for these changes.

The purpose of this Green Paper is to facilitate public discussion by highlighting major issues to be decided upon. Taking into account Hong Kong's circumstances, it is suggested that the following are the key decision areas:

1. **The Chief Executive.** The method of election of the Chief Executive in 2007 and thereafter has to be determined. The options are (a) existing mode of election by the Election Committee; (b) expanding the Election Committee; (c) election by universal suffrage after nomination by the Election Committee; (d) election by universal suffrage after nomination by the public.
2. **The Legislative Council.** As to the composition of Legco, the options are (a) no change; (b) increase in directly elected seats and decrease in functional constituency seats; (c) increase in the total number of seats by increasing the number of directly-elected seats only, or increasing both types of seats, perhaps equally; (d) establishing two houses, with an upper house composed of functional constituencies, NPC Deputies and CPPCC Delegates, and a lower house composed solely of directly-elected members; (e) direct election of the entire Legco. Finally, the methods of elections to Legco have to be considered.
3. **Relations between the Executive and the Legislature.** One option is the present practice of government by a coalition of pro-government parties and non-affiliated officials. Alternatives would include government by a single party or a coalition. Consideration should be given to expanding Legco's powers.
4. **Political parties and civil society.** Political parties play a crucial role in political recruitment and consolidating public opinion into a consensus to support policy. Political parties should be recognized in law and their activities promoted. Civic groups, which are developing rapidly in Hong Kong, also play a vital role and need to be fostered.

5. Local Government. At present, Hong Kong has no local tier of government with executive powers. Local government can provide more tailored services, better accountability, and foster civic identity. Consideration should be given to establishing a tier of local government with some executive powers.

The method of public consultation is also important. Thorough public consultation will not only facilitate the building of a consensus within the community, but also help legitimize the resultant political system. Options include setting up a governmental Public Opinion Assessment Office, holding public forums, conducting Legco hearings, conducting opinion surveys and holding constitutional conventions. The public consultation process must be expedited, because the legislative process must be completed by no later than March 2006 - little more than two years hence - if the Chief Executive is to be elected by universal suffrage in March 2007.

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CHAPTER ONE: THE NEED TO REVIEW THE POLITICAL SYSTEM

1.1 The need for reform

The premise of this Green Paper is that reform of the political system is necessary. This is because even on its own terms the constitution mandated by the Basic Law is in the process of change – with a gradual expansion of directly-elected seats in the legislature and a progression, albeit without a definite timetable, towards full democracy. A responsible government therefore must plan for these changes; and an accountable government must consult the public before making any decision.

Further, the current governance structure of the HKSAR appears to be in need of reform: a legislature enjoying an increasing mandate from the people but which has limited power, facing an executive selected by a narrowly-based committee but which wields very considerable power. The relationship between the Executive and the Legislative Council has been unsatisfactory. Partly to improve this relationship, the Tung administration introduced the Principal Officials Accountability System in July 2002.

Essentially, Hong Kong is in transition between a colonial administration and a modern democracy. Hong Kong was the last major territory to be decolonized, and so it retained forms of governance such as the Executive Council, an unelected leader, and a bureaucracy wielding political power, that characterized Britain's colonies in the eighteenth and nineteenth centuries. These forms of governance are inadequate for the SAR in the twenty-first century, particularly when it seeks to be a "world-class city."

As full democracy is the ultimate goal, a timetable has to be set, and a roadmap has to be defined. Success of political reform can only be guaranteed when the people actively participate in it and are involved in a process of rational, well-researched deliberation. Political participation is a voluntary act, but the HKSAR government has the responsibility of facilitating such participation and ensuring that people's views will be respected.

The starting point of public consultation should be a document identifying the questions and the options to be considered. The document serves the useful role of generating discussions and may even provide the basis for public opinion surveys to ascertain the attitudes of the silent majority.

1.2 The Sino-British Joint Declaration and the Basic Law

According to the 1984 Joint Declaration of the Government of the People's Republic of China and the Government of the United Kingdom of Great Britain and Northern Ireland on the question of Hong Kong, the Chief Executive of the Hong Kong Special Administrative Region (HKSAR) would be appointed by the Central People's Government on the basis of the results of elections or consultations to be held locally. Annex I of the Joint Declaration stipulates that the legislature of the HKSAR shall be constituted by elections, and that the executive authorities shall abide by the law and shall be accountable to the legislature.

Article 43 of the Basic Law stipulates that the Chief Executive of the HKSAR shall be accountable to the Central People's Government and the HKSAR. Article 45 stipulates that the method for selecting the Chief Executive shall be specified in the light of the actual situation in the HKSAR and in accordance with the principle of gradual and orderly progress. The ultimate aim is the selection of the Chief Executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures.

Article 68 of the Basic Law also stipulates that the method for forming the Legislative Council shall be specified in the light of the actual situation in the HKSAR and in accordance with the principle of gradual and orderly progress. The ultimate aim is the election of all the members of the Legislative Council by universal suffrage.

Moreover, Annex I of the Basic Law stipulates that if there is a need to amend the method for selecting the Chief Executive for the terms subsequent to the year 2007, such amendments must be made with the endorsement of a two-thirds majority of all the members of the Legislative Council and the consent of the Chief Executive, and they shall be reported to the Standing Committee of the National People's Congress for approval.

Similarly, Annex II of the Basic Law states that with regard to the method for forming the Legislative Council of the HKSAR and its procedures for voting on bills and motions after 2007, if there is a need to amend the provisions of this Annex, such amendments must be made with the endorsement of a two-thirds majority of all the members of the Council and the consent of the Chief Executive, and they shall be reported to the Standing Committee of the National People's Congress for the record.

In view of the fact that both the Joint Declaration and the Basic Law provide the legal basis for the review of the political system of the HKSAR beyond 2007, the Government of the HKSAR should conduct such a review as soon as possible.

1.3 The responses of the Government and the community to the recent demand for political reform

The mass demonstration of more than 500,000 people on July 1, 2003 expressed not only opposition to the Government's proposed legislation under Article 23 but also the desire for constitutional reform. In response to the public demand for democratic reform, the Government initially promised that the review of the political system would be conducted in the year 2004. The Secretary for Constitutional Affairs, Stephen Lam Sui-lun, further indicated that a timetable for the review of the political system would be released before the end of 2003 and public consultations would start at the beginning of 2004.

It is significant that not only have pro-democracy groups demanded that public consultation on political reforms by the Government should take place at the end of 2003 at the latest, but some members of the business community have also voiced their support for the review of the political system to start as soon as possible.

Due to popular demand for democratic reform in the HKSAR, Power for Democracy and the Hong Kong Democratic Foundation have decided to present this Green Paper for public consultation. Their aim is to generate interest in and debate on this important subject, as they believe that the active participation of Hong Kong people in the public consultation process is the key to its success.

1.4 Timetable for the review

The timetable for the review of the political system should be designed in such a way that the Central People's Government, the HKSAR Government and the Legislative Council can complete the decision-making and legislative processes no later than March 2006. The rationale is to ensure that the direct election of the Chief Executive by universal suffrage in March 2007 will remain a viable and realistic option; and interested persons will have at least one year to ponder their candidacies and prepare for their election campaigns. A reasonable timetable allowing for the implementation of all possible options will reflect the sincerity of the HKSAR Government in

consulting the public and genuinely considering all options. There is a serious concern that inadequacy of time will be used as an excuse to delay the implementation of a popularly supported option.

Timetable Proposed for Discussion:

Election of the Chief Executive

Now – September 2004	<u>Public consultation</u> Public consultation involves the release of a proper consultative document, a Green Paper, by the Government listing all possible options for the public to articulate their views through well-defined channels. The Government should also assume responsibility to encourage and facilitate public participation in the discussions
October 2004 – March 2005	Release of a White Paper on the method of election of the Chief Executive, and taking steps to implement changes of the method, if necessary, in accordance with the provisions of Annex I of the Basic Law
April 2005 – March 2006	Legislative Council to enact legislation on election of the Chief Executive
April 2006 – March 2007	Preparation for election campaign and actual election campaign
March 2007	Election of the Chief Executive
July 2007	Assumption of office by the new Chief Executive

Timetable Proposed for Discussion:

Election of the Legislative Council

Now – June 2005	<u>Public consultation</u> Public consultation involves the release of a proper consultative document, a Green Paper, by the Government listing all possible options for the public to articulate their views through well-defined channels. The Government should also assume responsibility to encourage and facilitate public participation in the discussions
July 2005 – June 2006	Release of a White Paper on the method of election of the Legislative Council, and taking steps to implement changes of the method, if necessary, in accordance with the provisions

	of Annex II of the Basic Law
July 2006 – June 2007	Legislative Council to enact legislation on election of the Legislative Council, including the definition of the respective constituencies
July 2007 – September 2008	Preparation for election campaign and actual election campaign
September 2008	Election of the Legislative Council

CHAPTER TWO: ELECTION OF THE CHIEF EXECUTIVE

Hong Kong's system of government is often characterized as "executive-led." This is in itself not a very meaningful characterization since all forms of government are executive-led, in the sense that the driving force and main source of initiative in governance is the political executive. However, it is true that in Hong Kong there is a high concentration of power in the executive branch. The legislature has relatively less power.

2.1 Option 1: Retaining the existing mode of the Election Committee for the Chief Executive

In March 2002, the first Chief Executive was re-elected as the second Chief Executive by an 800-member Election Committee. The existing composition of the Election Committee can be retained, as can the current method of electing the Chief Executive.

2.2 Retaining the existing mode of the Election Committee but expanding it and enhancing its representativeness

A minimalist reform approach is to retain the existing mode of the Election Committee, while attempting to expand and democratize it. The size of the Election Committee can be expanded from 800 members to 1,000, 1,200 or even more. The social groups and functional groups electing representatives to the Election Committee can be broadened in scope to involve new groups such as the ethnic minorities, etc.

Expanding the composition of the Election Committee has the advantage of enhancing its legitimacy and representativeness. However, the disadvantage is that as long as the Chief Executive is selected by a relatively small group of people and the majority of the population cannot participate in the process, critics will view it as a "small-circle election" that does not confer much legitimacy upon the elected Chief Executive.

Theoretically, the Election Committee can be fully democratized following the U.S. model of an Electoral College. In this case, the election of the Chief Executive would become an indirect election, by the Electoral College which itself is elected by universal suffrage. There are various formulae for reaching an absolute majority in support of a candidate.

2.3 Option 3: Election of the Chief Executive by universal suffrage after nomination by an Election Committee

If the Chief Executive is elected by universal suffrage, the nomination of the candidates may be vested in the hands of the existing 800-member Election Committee. The eligibility and requirements of the candidates for the Chief Executive position have to be spelt out, if changes to the existing statute are considered desirable, though they must not go beyond the requirements in the Basic Law.

Formal candidacy requires the nomination by a number of Election Committee members. The number required would limit the number of candidates. A low threshold such as 50 can facilitate candidates from various political backgrounds but will still bar some candidates; a high threshold such as 100 or more may bar even more candidates from the competition.

While the "advantage" of this option is to minimize the number of candidates who will run for Chief Executive, its disadvantage is that it will screen out candidates who are deemed to be unfit by the Committee members. In the event that the Election Committee's composition cannot fully represent either all the sectors of the community or the opinions of the public, the legitimacy of the candidates will be questioned.

Two relevant issues may be raised here. The representativeness of the Election Committee has already been discussed earlier. In view of the limited function of the Election Committee (it does not elect any member of the legislature after 2000 and only nominates Chief Executive candidates in this mode of election), is it worth the effort to maintain the Election Committee?

Further, if there are more than two candidates standing for Chief Executive, the requirement of an absolute majority support for the successful candidate may involve two rounds of voting, with the two leading candidates entering the second round as in the election of the French President.

2.4 Option 4: Election of the Chief Executive by universal suffrage after candidates have obtained the support of a significant number of voters

If the Chief Executive is elected by universal and equal suffrage, in the absence of a mature two-party system like that in the U.S., some kind of nomination process may need to be devised to limit the number of candidates to give the electorate reasonable choices. The nomination may be performed by an Election Committee as outlined in 2.3 above, or a candidate may qualify for formal candidacy through the collection of a number of supporting signatures from registered voters. A combination of both may also be adopted; and under such circumstances, the threshold at the Election Committee may be set higher.

A reasonable number of registered voters whose support is required for formal candidacy may range from 50,000 to 100,000. Again, the number required is open for discussion.

2.5 Timetable for the direct election of the Chief Executive

The election of the Chief Executive by universal and equal suffrage is an ultimate goal recognized by the Basic Law. Whether or not it will be introduced in 2007 is the most crucial issue in the present review of the political system.

If direct election is to be introduced in 2007, no transitional election method needs to be introduced. However, if direct election is to be introduced at a later date, then some transitional arrangement should be made for the election in 2007 or beyond.

CHAPTER THREE: COMPOSITION AND ELECTIONS OF THE LEGISLATIVE COUNCIL

At present, 24 of the 60 seats in the legislature are elected by universal suffrage, 6 (10%) by a narrowly-based Election Committee, and 30 (50%) by functional constituencies, many of which are narrowly based. This is a highly unusual arrangement by international standards. The Basic Law sets the direction for increasing the number of legislators elected by direct election. This will enhance the popular mandate and legitimacy of the legislature. If the proportion of directly-elected legislators falls short of 100%, it would also be important to resolve the issue of the split voting procedure. Whether the increasing mandate of the legislature should be matched by a corresponding expansion in its powers will be discussed in the following chapter.

3.1 Option 1: No change

While this option avoids debates and controversies, it is not in line with the direction of evolution set out in the Basic Law. It is also against the concept of "gradual and orderly change."

3.2 Option 2: Increase in directly-elected seats and decrease in functional constituency seats

One option is to increase the number of directly-elected seats, and decrease the number of seats returned by functional constituencies.

The number of directly-elected seats to be increased and the number of functional constituency seats to be reduced can be discussed. However, while the two numbers may be the same, thus maintaining the existing size of the legislature, they do not have to be so, because the number of members in legislature may be expanded or reduced. The latter has attracted little support, while increasing the number of legislators has been suggested by many.

Reducing the number of functional constituency seats would be controversial, and it might be difficult to identify which of the existing functional constituency seats should be abolished.

3.3 Option 3: Increase in the number of Legislative Council seats by increasing the number of directly-elected seats only, or increasing both types of seats, perhaps equally

There is support for increasing the number of Legislative Council seats as this option is supported by vested interests.

The HKSAR legislature has almost as many committees as in parliaments of major countries, yet Hong Kong only has a fraction of the legislators. This puts heavy demand on the time of individual legislators, and arguably correspondingly lowers the quality of input into legislative deliberations. Increasing the number of legislators will improve the contribution of the legislature, though the public may be concerned with the value for money.

There are three approaches to increasing the number of seats in the Legislative Council: increasing directly-elected seats only, substantially increasing directly-elected seats but only have a few more functional constituency seats, and increasing both types of seats equally.

One suggestion is to increase the number of directly-elected seats to sixty while maintaining the existing number of functional constituency seats; in this way, directly-elected seats will constitute a two-thirds majority paving the way for further democratic reforms to the extent of eventually abolishing all functional constituency seats.

3.4 Option 4: Establishing two houses, with an upper house composed of functional constituencies, NPC deputies and CPPCC delegates, and a lower house composed solely of directly-elected members

Another option is to establish two houses in the HKSAR legislature: an upper house composed of functional constituency seats alone, or involving Hong Kong deputies of the National People's Congress and delegates to the Chinese People's Political Consultative Conference as well; and a lower house composed solely of directly-elected members. This model may follow either the American or the British system of legislature where an upper house co-exists with a lower house. The respective powers of the two houses will have to be worked out. The upper house may be as powerful as the U.S. Senate or enjoy more limited powers as the House of Lords in the United Kingdom.

The option of a bicameral legislature is based on existing practice. Today, Legislative Council's voting procedures for proposals put forward by members stipulates that the members from the functional constituencies and the other group of members vote separately.

A bicameral legislature with roughly equal powers for both chambers tends to be cumbersome and may paralyze the working of the government. It is also difficult to justify because most functional constituencies consist only of a small number of voters and cannot claim the kind of legitimacy and representativeness enjoyed by the lower house which is elected by universal suffrage.

3.5 Option 5: Direct election of the entire Legislative Council

There is a demand that all seats in the Legislative Council should be directly elected by 2008; and this is a very important option to be considered in this review of the political system. If this ultimate goal is to be delayed, then the above options will have to be considered as transitional arrangements.

3.6 Methods of elections to the Legislative Council

If the functional constituencies are to be retained beyond 2008, one should consider democratizing and expanding the respective electorates. The employees and workers should be included as well as the entrepreneurs and employers.

The existing mode of direct elections to the Legislative Council should also be reviewed; this is especially so if the number of directly-elected seats is to be increased substantially. Multi-seat medium-sized constituencies in which voters can vote for only one slate has limitations in the absence of a mature political party system. Voting can become quite confusing when there are more than five seats in a constituency, and when there are many slates to choose from.

The need for change for reasons such as the above has to be balanced against the disadvantage of continual change. The arrangements for the directly elected constituencies have been changed four times since their introduction, creating a barrier to people's understanding of, and identification with, the election process. Further change is unavoidable, since it is mandated by the Basic Law. However, as far as possible a framework should be devised to accommodate any scheduled future changes in the electoral arrangements with the minimum of disturbance.

If the number of directly-elected seats is to be increased, one option is to increase the number of constituencies. The latter may rise to eighteen so as to coincide with the number of District Councils.

Another alternative is to re-introduce the single-member constituency, first-past-the-post system. However, this may change the ecology of the legislature in a significant way, as it tends to facilitate the emergence of a two-party system and a stable majority in the legislature. The present system, on the other hand, facilitates independent candidates and small political parties as their chances of securing seats in the Legislative Council remain promising.

CHAPTER FOUR: RELATIONS BETWEEN THE EXECUTIVE AND THE LEGISLATURE

At present in comparison with many overseas polities, the Hong Kong legislature has relatively limited powers. As the HKSAR evolves to a full democracy, the reforms should not be restricted to the electoral systems. One major area for reform is the relations between the executive and the legislature.

4.1 Power to introduce bills

According to the Basic Law (Article 74), only bills "which do not relate to public expenditure or political structure or the operation of the government may be introduced" by the legislators, and the "written consent of the Chief Executive shall be required before bills relating to government policies are introduced." In view of the democratization of the Legislative Council elections, such restrictions can hardly be justified. This is especially so when the Chief Executive is not elected by universal suffrage. Consideration should be given to increasing the power of the Legislative Council, including that to introduce private members' bills

4.2 Voting procedures in the Legislative Council

Further, for the passage of motions, bills or amendments to government bills proposed by members, the Legislative Council's procedures for voting require the support of more than half of the members returned by functional constituencies and those returned by geographical constituencies through direct elections present (after the 2004 elections, there will be no more legislators returned by the Election Committee). The maintenance of such a procedure will come under considerable pressure even if both the number of directly-elected and functional constituency seats increase.

4.3 Majority support for the Government in the Legislative Council

The smooth functioning of a government is dependent on majority support in the legislature. In the early years of the Tung administration, it received support from pro-government parties. Leaders of three such parties and organizations have been appointed to the Executive Council. But the foundation of this arrangement is weak, support from the parties is far from assured and much bargaining goes on behind the scene. The resignation of party members of the Executive Council following expressions of public discontent highlights the fragility of such a system.

The maintenance of a safe majority support for the government will become increasingly difficult when the number of directly-elected seats is increased. The problem will be exacerbated by the existing method of direct elections which encourages independents and small parties. In order to win the critical votes to secure majority support, the government may have to make big concessions to a small number of independent legislators or one or two small parties. The situation may be similar to that of the Israeli Knesset, which is characterized by a number of very small parties which, because they hold pivotal votes necessary for the formation of ruling coalitions, wield influence out of proportion to their respective sizes.

When the majority or all of the seats in the Legislative Council are directly elected, there is a distinct possibility that the Chief Executive will not be able to command a safe majority in the legislature; in fact, he/she may even face a majority opposing him/her. Then Hong Kong will have to encounter a "co-habitation" situation such as in France, where the President has to deal with an opposition party controlling a majority in the National Assembly.

In view of the above, it is important to consider various options concerning the relationship between the executive and the legislature. Assuming progress in democratization, the main considerations are legitimacy/representation, checks and balances as well as stability and efficiency in the government.

4.4 Option 1: Retaining the Existing Practice of a Governing Coalition Composed of Pro-Government Parties and Non-party Affiliated Principal Officials

Although there is no ruling party in the government of the HKSAR, a loose form of governing coalition exists in the Executive Council, which is composed of pro-government political party leaders, non-party affiliated principal officials and some appointed members without ministerial portfolios.

The advantages of the existing arrangement is that it is flexible, allowing the administration to recruit talent from various sectors. Under such a system, the Chief Executive is above party politics and in theory can appeal to the entire community. But this arrangement is not based on a clear consensus regarding ideological values and policy orientations. The political parties within the coalition are under pressure to maintain their appeal to the electorate, and the administration may not be able to

satisfy them through incorporation of their policy inputs. It is not unusual that these political parties openly disagree with the administration and criticize it in the Legislative Council.

4.5 Option 2: A Majority Party or a Majority Coalition Forming the Government

An alternative is to allow a majority party or a coalition which commands a majority of the seats in the Legislative Council to form the government. However, as long as the methods of elections to the Legislative Council and its composition remain unchanged, it will be difficult for a party to emerge as the majority party or for a stable majority coalition to be formed. If all the seats of the Legislative Council are to be directly elected, then the probability of a majority party/coalition will be enhanced. Further, if the single-member constituency, simple-majority system is to be adopted in the direct elections, then the likelihood will be very high. Under such circumstances, the emergence of a two-party system or two broad coalitions of political parties will be a likely scenario.

On the relationship between the Chief Executive and the legislature, if the Chief Executive can secure the support of the majority party or the majority coalition, the functioning of the government will be stable and efficient. If the Chief Executive faces an opposition controlling a majority in the Legislative Council, the situation may become difficult. However, under existing arrangements, there is no guarantee that the Chief Executive can secure a majority support in the Legislative Council, and this will become more difficult when the Legislative Council expands.

4.6 Option 3: Involving a Group of Parties Forming the Government

An alternative to formally changing the system is to widen the base of support of the governing coalition. The Chief Executive may appoint leaders of a number of political parties as well as influential independent legislators to the Executive Council to enhance the chance of securing majority support in the legislature. However, such an arrangement would impose exacting demands on the Chief Executive's political skills in consensus building without providing the guarantee of a stable majority support in the legislature.

Assuming that the Chief Executive is elected by universal suffrage and most political parties in the territory remain pragmatic and moderate in policy orientations, this may be a workable arrangement. But there is also the likelihood that the debates in the

Legislative Council simply take place first in the Executive Council, and the efficiency of the government will be adversely affected.

In sum, given the provisions of the Basic Law, the relationship between the Executive and the Legislative Council will probably become more problematic. It is difficult to envisage satisfactory solutions at this stage. Clearer indications concerning the evolution towards a presidential system or a parliamentary system would be helpful.

CHAPTER FIVE: THE ROLE OF POLITICAL PARTIES AND THE DEVELOPMENT OF CIVIL SOCIETY

A democratic system depends on the development of mature, effective and broadly-based political parties. Political parties engage in political recruitment, aggregate community opinion and build consensus around policies; without effective political parties, society will not be integrated easily. Direct elections for a number of seats in the Legislative Council have been held since 1991; and existing political parties, including their predecessors, have a short history. Clubs, societies, charities, political groups and other civic bodies have developed. The media actively discuss government policies and social issues; the people vent their feelings through demonstrations. Opinion polls suggest that the relatively satisfactory turnouts in the elections have been motivated by a sense of civic responsibility, as well as, perhaps more recently, dissatisfaction with the Government.

Notwithstanding these developments, Hong Kong's civil society remains less developed than that of many other countries, including those in developed and developing countries. Although there are frequent demonstrations in Hong Kong, attendance is thin (except in May-June 1989 and July 2003); membership of political parties remains miniscule. They often criticize, but rarely have developed alternatives to offer, and most lack the resources to produce such alternatives. Intellectual resources such as policy institutes to support debates on public policy are limited, with the result that such debates are often shallow, and on some issues, entirely lacking. Advisory committees exist but in many cases are not very effective channels to gather community opinion.

The current political system has not been designed to foster popular participation. If the electoral systems are changed, i.e., introducing direct elections of the Chief Executive by universal suffrage and the direct elections of all seats of the legislature by universal suffrage, popular participation in both formal and informal politics will certainly improve, and political parties will have a better foundation to develop.

In the ordinance on the election of the Chief Executive, the successful candidate must resign from his/her party before taking up office. This practice is in contradiction to the normal practice in all democracies and in Mainland China.

On the other hand, government compensation for part of the campaign finance of Legislative Council elections starting in 2004 is a progressive step forward.

While deliberating the formal constitutional arrangements in the review of the political system, the role of political parties and the development of civil society should not be neglected.

A starting point may be a law on political parties. At present, political parties generally have to constitute themselves as companies limited by guarantee or register under the Societies Ordinance. This is undesirable, and can give rise to difficulties in distinguishing political activities from commercial activities. Political parties should be given a distinct status and should be able to register as such.

It will also be important for the Government to support the development of civic groups, for example, by attending to their views and by providing them with access to necessary resources such as meeting places and public media. Reforms to make the advisory committees more representative would also help.

CHAPTER SIX: LOCAL GOVERNMENT

In 1999, with the termination of the Urban and Regional Councils and the assumption of the bulk of their work by Hong Kong's Central Government, the pre-existing tier of local government in Hong Kong was largely abolished. The District Councils remain, but their role is advisory. Given the prominence of the Legislative Councillors, even the advisory role of the District Council members is perhaps smaller than it was in the past.

In most countries, significant functions are devolved to local levels of government. Such devolution makes for better identification of the citizen with those governing him/her, stronger accountability, and better tailoring of services to the needs of particular districts. The disadvantages of local government are that duplication of resources can arise, economies of scale may fail to be achieved, and differences in local rules and procedures may hamper economic activities.

It can be argued that because of its geographical compactness, Hong Kong does not need a tier of local government. However, the establishment of such a tier would be helpful in fostering local civic activity and civic identity. Policy formulation at the territory-wide level would be improved with more input on local needs and differences. In Hong Kong many government services, such as education and health, are provided through large-scale monolithic institutions that are neither close to the customer nor subject to competition. Devolution could bring improvement in service quality and, by introducing inter-district competition, greater efficiency in the use of resources.

If local government were restored in Hong Kong, the drawbacks of the pre-existing model need to be recognized. The Urban and Regional Councils had only very limited responsibilities, mainly those relating to recreation and hygiene. One of the complaints about them was that they did little relative to the very extensive revenues they enjoyed. A rethinking of the role of local government would be desirable.

Option 1: Status quo – minimum local government

Under this option local government organs remain at a minimum, with the District Councils assuming an advisory role only.

Option 2: Reversion to Urban Council/Regional Council model

The former Urban Council and Regional Council may be re-established with their former limited powers.

Option 3: Introduction of a new tier of local government with some executive powers

A normal system of local government would include devolution of more substantial powers to implement policy, for example, local government may take over responsibility for the provision of health care and housing. This in turn may involve dividing up the existing territory-wide Housing Authority and Hospital Authority into district units.

At the level of local government, a political party or a coalition of political parties that capture most of the seats in a particular district affairs may be given some powers to manage the District Council. It can form an executive committee to exercise such powers and the City District Office can assist the committee.

CHAPTER SEVEN: MONITORING THE PUBLIC CONSULTATION EXERCISE AND ASSESSING PUBLIC OPINION

Hong Kong's present constitutional arrangements suffer from a lack of legitimacy. The public consultation process on the proposed constitutional reforms will be crucial in validating the reforms in the eyes of the people. The consultation on the proposed reforms will, if conducted properly, legitimize not only the reforms themselves but the constitutional arrangements as a whole.

7.1 Option 1: Government consultation of public views by setting up a Public Opinion Assessment Office

Traditionally, the Hong Kong Government has consulted the views of the public through the publication of Green Papers. It is expected that a formal consultative document will be released listing all possible options for the public to articulate their views through well-defined channels. The document should serve to identify issues and questions, formulate options, and allow Hong Kong people to express their opinions in a more structured manner. On the basis of the document, public attitudes towards the reform proposals can even be quantified through public opinion surveys. In order to gauge the views of the public accurately and comprehensively, a Public Opinion Assessment Office may be set up. Citizens who are interested in the issue of political reforms can submit their views to the Assessment Office, which will later compile a report on public views. The Assessment Office should be presided over by a prestigious panel of community leaders who command the trust and respect of Hong Kong people. The panel will guide the staff of the Office in the handling of public submissions and in due course the publication of a final report.

The benefit of a Public Opinion Assessment Office is that there is an organization responsible for the collection and assessment of public views, as well as the preparation of a final report. The Office should be given resources to encourage and facilitate discussion at the community level. If the panel is to be appointed by the Chief Executive, its neutrality and objectivity cannot be guaranteed. A more acceptable alternative is for the Chief Executive to nominate the panel, to be endorsed by the Legislative Council.

7.2 Option 2: Public forums

Public forums may be held in the eighteen districts. While District Councils and District Offices should play an active role in encouraging the public to express their views, the Government should welcome and support all social groups to initiate their own discussions or public forums on political reforms in Hong Kong.

7.3 Option 3: Legislative Council hearings

At the same time, the Legislative Council will hold its own public hearings on political reforms and may publish its own report.

7.4 Option 4: Public opinion surveys

In the past, the Hong Kong Government has commissioned opinion surveys to gauge the views of the public on political reforms. In order to ensure political neutrality, the Government should delegate the task to the Public Opinion Assessment Office. The Office will handle the commissioning process in an autonomous way without interference from the Government.

7.5 Option 5: Constitutional conventions

Some overseas countries have held constitutional conventions to guide the design of political and/or constitutional reforms. The Government should welcome and support the organization of constitutional conventions by civic groups.

7.6 Option 6: Combinations of the five options

Since all the options discussed above are not mutually exclusive, the public is invited to consider whether all or some of them should be adopted.

CONCLUSION: THE WAY FORWARD

This document sets out the options for political reforms in the HKSAR. It is hoped that this Green Paper, prepared with very limited resources, will provide a useful starting point for members of the public to consider, debate and discuss the advantages and disadvantages of various reform options.

A political system has to evolve with the times, and it must be guided by the aspirations and demands of the community. Political reforms must be based on the support of society, and a public consultation exercise conducted by the government must guarantee that Hong Kong people's views will be respected.

綠皮書：香港特別行政區政制改革檢討

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撮要

考慮進行政制改革是香港當前的要務。《基本法》訂明了實行普選的最終目標，雖然沒有確切的時間表。香港市民經已表達他們對民主的訴求，一個負責任的政府必須為此做好規劃工作。

這份綠皮書推出的目的是希望透過突顯一些有待探討的重要問題，促進社會的討論。考慮到香港現時的情況，以下是幾個主要有待探討的範圍：

1. 行政長官 必須決定二零零七年及以後行政長官的產生辦法，包括以下的方案：(甲) 維持現時選舉委員會選舉行政長官的模式；(乙) 維持現時選舉委員會選舉行政長官的模式，但擴大委員人數以增加其代表性；(丙) 行政長官候選人經選舉委員會提名後以普選方式產生；(丁) 行政長官候選人在獲得一定數目的選民支持後以普選方式產生。
2. 立法會 至於立法會的組成則有以下方案：(甲) 不變；(乙) 增加直選及減少功能組別議席；(丙) 只增加直選議席，以增加立法會議席的整體數目；或同時增加直選及功能組別議席，兩者增加的數目可以相等；(丁) 建立兩院制：由功能組別、港區全國人大代表及港區全國政協委員組成上議院，以及由直選議員組成下議院；(戊) 立法會議席全面直選。最後，立法會的直選和功能組別選舉安排亦有檢討的需要。
3. 行政立法關係 其中一個方案是維持現時由親政府政黨及無政黨背景的主要官員組成執政聯盟；另一方案則由擁有多數議席的政黨或政黨聯盟組成政府。同時，政府亦應考慮增加立法會的權力。
4. 政黨與公民社會 政黨就政治人才招攬、整合社會上不同意見、以及就各項政策不同意見建立共識等方面均擔當重要的角色，政府應確認它們的法律地位，亦應協助推動它們的活動。在香港逐漸發展的民間團體同時亦擔當重要的角色，政府應積極推動它們的發展。
5. 地方行政 現時，香港並無擁有實權的地方行政層級。地方行政機關的建立有助推行更能切合該地區需要的政策，其問責性亦可望加強，同時亦可增加市民對社區的認同。因此，當局應考慮建立一個擁有實權的地方行政層級。

進行公眾諮詢的辦法亦十分重要。公眾諮詢有助社會對有關問題形成共識，亦有助加強從而產生的政治制度的認受性。進行公眾諮詢的方法包括由政府成立「民

意評估辦事處」、舉辦公眾論壇、立法會聽證會、進行民意調查、以及舉行制憲會議。假若行政長官要在二零零七年三月經由普選產生，有關立法程序須於二零零六年三月前完成；現在只餘下僅兩年多的時間，故此諮詢公眾必須加快進行。

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第一章：政制改革檢討的必要

1.1 改革的必要

這份綠皮書推出的前提是本港的政治制度必須進行改革。《基本法》訂明了本港循序漸進的憲法精神；雖然沒有確切的時間表，但香港政制發展顯然是以實現全面民主化為目標，逐漸增加立法會內的直選議席。因此，一個負責任的政府必須就此等變革作適當的準備，並在作出任何決定前充分諮詢公眾。

再者，現時特區政府的管治架構亟需進行改革：由於逐漸擴展其民意基礎的立法機關並無實權，在面對具有相當權力但卻由缺乏民意基礎的選舉委員會選出的行政長官時，兩者關係難免並不理想。特首董建華於二零零二年七月推行高官問責制，部份原因就是改善行政立法關係。

香港正處於由殖民管治過渡至現代民主制度的轉型期。香港是其中最後經歷非殖民地化過程的地方，故此，很多殖民地時期的管治特色仍然保留著，如行政會議、一個不是由選舉產生的領袖、以及一個像十八和十九世紀時期英國殖民地般行使政治權力的官僚系統。這樣的管治模式，對於一個處於二十一世紀，並冀望成為世界級城市的特別行政區來說，自有明顯不足的地方。

鑑於全面民主化是本港政制發展的最終目標，明確的時間表和路線圖實屬必要。政制改革的成功，有賴市民的積極參與和具研究基礎的理性討論。政治參與固然是自覺行為，但特區政府對鼓勵市民的投入和保證市民的意願受到尊重實屬責無旁貸。

政制改革的公眾諮詢應以正式的諮詢文件為起點，臚列所有可行的方案以及其相關的問題。該文件將就促進討論承擔有關的角色，甚至可為相關的民意調查提供基礎，以瞭解大部份沉默的市民的取態。

1.2 《中英聯合聲明》及《基本法》

根據《中華人民共和國政府和大不列顛及北愛爾蘭聯合王國政府關於香港問題的聯合聲明》，香港特別行政區行政長官在當地通過選舉或協商產生，由中央人民政府任命。《聯合聲明》附件一訂明香港特別行政區立法機關由選舉產生。行政機關必須遵守法律，對立法機關負責。

《基本法》第四十三條訂明香港特別行政區行政長官須對中央人民政府及香港特

別行政區負責；第四十五條規定行政長官的產生辦法根據香港特別行政區的實際情況和循序漸進的原則而規定，最終達至由一個有廣泛代表性的提名委員會按民主程序提名後普選產生的目標。

《基本法》第六十八條亦訂明立法會的產生辦法根據香港特別行政區的實際情況和循序漸進的原則而規定，最終達至全部議員由普選產生的目標。

此外，《基本法》附件一訂明二零零七年以後各任行政長官的產生辦法如需修改，須經立法會全體議員三分之二多數通過，行政長官同意，並報全國人民代表大會常務委員會批准。

同樣，《基本法》附件二訂明二零零七年以後香港特別行政區立法會的產生辦法和法案、議案的表決程序，如需對本附件的規定進行修改，須經立法會全體議員三分之二多數通過，行政長官同意，並報全國人民代表大會常務委員會備案。

由於《聯合聲明》及《基本法》均為香港特別行政區二零零七年以後的政制改革檢討提供了法律基礎，特區政府自應盡快展開檢討的工作。

1.3 政府及社會對政制改革訴求的回應

二零零三年七月一日超逾五十萬人的大遊行，表達的不單是對政府二十三條立法的不滿，更突顯了公眾對民主政制的渴求。面對公眾對政制改革的訴求，政府曾表示將於二零零四年開展政制改革的檢討工作。及後，政制事務局局長林瑞麟表示當局即將於二零零三年年底前公佈政制檢討的時間表，而公眾諮詢則隨即在二零零四年年初展開。

值得注意的是，當一些爭取民主的民間團體要求政府不遲於二零零三年年底展開政制改革諮詢的同時，部份商界人士亦表明支持盡早展開諮詢工作。

鑑於公眾對民主改革的殷切期望，民主動力及香港民主促進會決定以此綠皮書推動諮詢公眾的工作，目的在喚起公眾對這一重要議題的關注和引發討論；兩會相信，全港市民的積極參與是整個諮詢過程成功的關鍵。

1.4 政制檢討時間表

政制改革檢討時間表的設計必須使中央人民政府、香港特別行政區政府和立法會能夠在二零零六年三月前完成所有決策和立法程序，使在二零零七年三月普選行政長官成爲一個有可能實現的選項。有志參選的人士最少應有一年時間仔細計劃

他們的參選安排和籌備競選活動。由於公眾廣泛憂慮時間不足將會成為政府延遲實行某個為社會人士普遍支持方案的藉口，一個合理、容許所有可行方案有機會真正實現的時間表，將有助顯示特區政府對公眾諮詢的誠意和認真考慮所有可行的方案。

供各界討論的時間表
行政長官選舉

現時至二零零四年九月	<u>公眾諮詢</u> 公眾諮詢包括由政府發佈正式的諮詢文件（即綠皮書）。文件內應詳列所有可行的政制改革方案，讓公眾透過各種渠道表達意見，而政府在過程中應積極扮演促進社會討論和公眾參與的角色
二零零四年十月至二零零五年三月	就行政長官的產生辦法發佈白皮書，並根據需要遵循《基本法》附件一採取相應行動修訂選舉辦法
二零零五年四月至二零零六年三月	由立法會通過行政長官選舉的相關法例
二零零六年四月至二零零七年三月	選舉的前期準備工作及實際競選活動的展開
二零零七年三月	選舉行政長官
二零零七年七月	新一屆行政長官正式就任

供各界討論的時間表
立法會選舉

現時至二零零五年六月	<u>公眾諮詢</u> 公眾諮詢包括由政府發佈正式的諮詢文件（即綠皮書）。文件內應詳列所有可行的改革方案，讓公眾透過清楚界定的渠道表達意見，而政府在過程中應積極扮演促進社會討論和公眾參與的角色
二零零五年七月至二零零六年六月	就立法會的產生辦法發佈白皮書，並根據需要遵循《基本法》附件二採取相應行動修訂選舉辦法
二零零六年七月至二零零七年六月	由立法會通過立法會選舉的相關法例，當中包括界定選區或功能組別
二零零七年七月至二零零八年九月	選舉的前期準備工作及實際競選活動的展開
二零零八年九月	選舉立法會

第二章：選舉行政長官

論者經常認為香港的政治制度是「行政主導」，但「行政主導」一詞並不是一個十分有意義的概念。由於任何政體的原動力和管治上的倡議主要均來自行政當局，所有的政府體制皆可被視為「行政主導」。不過，香港政治體制的確把大部份權力集中於行政機關，而立法機關只能享有相對較少的權力。

2.1 方案 1：維持現時選舉委員會選舉行政長官的模式

在二零零二年三月，第一屆行政長官被八百人的選舉委員會推選連任，成為第二屆行政長官；現時組成選舉委員會和產生行政長官的模式可予以保留。

2.2 方案 2：維持現時選舉委員會選舉行政長官的模式，但擴大委員人數以增加其代表性

一個牽涉最少變更的方案是在維持現時選舉委員會產生行政長官模式的同時，擴大委員人數及增加其民主成份。委員人數可考慮由現時的八百人增加至一千或一千二百人（甚至更多），亦可擴大參與選舉選委會委員的社區組織和功能團體範圍，如少數族裔團體等。

擴大選舉委員會的組成有助增加其認受性和代表性。但由於行政長官是由一小撮人選出，大部份市民未能參與，行政長官將難免繼續被批評為由「小圈子選舉」產生，對加強其認受性幫助不大。

理論上，選舉委員會可按照美國的選舉團模式進行全面民主化；這樣的話，行政長官其實是由普選產生的選舉委員會循間接選舉產生。當然，有不同的方式達至以絕對多數決定行政長官人選的目標。

2.3 方案 3：行政長官候選人經選舉委員會提名後以普選方式產生

若行政長官能夠由普選產生，候選人可經由選舉委員會提名；同時，若現行的有關法例需要改變，行政長官候選人的參選資格和要求應詳細訂明，雖然這些改變不能超越《基本法》的規定。

成為正式的行政長官候選人要取得一定數目的選委會委員的提名，這樣的安排有助限制參選人數目。如提名只需要較小數目委員的支持（五十位左右），這將能為更多不同政治背景的人提供參選機會，雖然仍會有部份候選人無法競逐；而一

個較高的提名要求（如一百位委員或更多），則更多候選人無法參與競逐。

此方案的「好處」在限制競逐行政長官候選人的數目，而弊端在讓一些被選委會委員主觀認為不適合的候選人被排拒於外。在選委會的組成未能充份代表社會各個階層和普遍民意的前提下，其提名的候選人的認受性將難免受到質疑。

這裡有兩個值得注意的問題。有關選委會代表性的問題已經論及；面對選委會的有限功能（自二零零零年後選委會不再選舉任何立法會議員而根據本方案只負責行政長官候選人的提名），選委會是否還應該保留？

再者，一般相信將會超過兩位候選人競逐行政長官，如勝出的候選人須得到選委會委員絕對多數的支持，這樣的規定將導致類似法國總統選舉的情況出現，即由兩位首回合贏得最多支持的候選人參與第二輪角逐。

2.4 方案 4：行政長官候選人在取得一定數目的選民支持後以普選方式產生

在欠缺像美國般成熟的兩黨制下，如果行政長官需要根據普遍及平等的選舉產生，當局就要設計某種能夠限制候選人數目的提名制度，讓選民能有合理的選擇。正如2.3部份所述，提名可以由選委會負責，候選人的正式參選資格亦可以由一定數目已登記選民的簽名確認。上述兩種做法並行亦可，而這樣選委會委員所需提名人數可以稍為提高。

就取得正式參選資格所需的已登記選民支持人數，合理的數目可介乎50,000至100,000人。當然，這個數目可再探討。

2.5 普選行政長官的時間表

《基本法》訂明行政長官最終要以普遍及平等的選舉產生，而是否於二零零七年落實這項規定是目前政制改革檢討的最關鍵問題。

若在二零零七年實行普選，自無須實施任何過渡性的選舉安排。但如果普選的目標要在較後的時間才能實現，政府則必須為二零零七年或以後的選舉作出過渡性的安排。

第三章：立法會的組成及選舉

現時立法會的六十個議席中，有二十四個是由直選產生，另有六席（百分之十）是由只有狹隘民意基礎的選舉委員會選舉產生，其餘的三十個議席（百分之五十）則經由大部份並無廣泛民意基礎的功能組別選舉產生。從國際標準而言，這樣的安排相當不尋常。《基本法》訂明了立法會增加直選議席的發展方向，這將會不斷提高立法機關的代表性和認受性。而隨著立法會直選議員逐漸增加而立法會議席尚未能全體由直選產生，解決分組點票及有關問題將會愈加重要；而應否增加立法會的權力以配合其民主化將在下一章討論。

3.1 方案 1：不變

雖然此方案可避免爭拗，但這違背了《基本法》訂明的政制發展方向，亦違反了「循序漸進」的概念。

3.2 方案 2：增加直選及減少功能組別議席

改革立法會的其中一個建議是增加直選議席，以及同時減少功能組別議席的數目。

直選議席增加的數目和功能組別議席減少的數目均是探討的範疇。兩者當然可以相同，即維持現時立法會的整體議席數目不變。但這其實並無必要，因為立法會的整體議席數目可以增加或減少。過去已有很多增加議席的建議，而減少議席則不見有什麼支持。

減少功能組別議席的建議甚具爭議性，而且決定取消哪些組別議席亦會很困難。

3.3 方案 3：只增加直選議席，以增加立法會議席的整體數目；或同時增加直選及功能組別議席，兩者增加的數目可以相等

增加立法會議席的建議得到一定的支持，因為這個方案較易為既得利益者所接受。

雖然香港特別行政區立法會議員的數目很小，但立法會委員會的數目卻與世界上很多大國的議會相約。這顯示個別議員需付出大量的時間應付各個委員會的會議；亦可能對議政質素有負面影響。雖然公眾可能關注增加整體議員數目所牽涉的開支，但這個方案預期對提升議會的貢獻會有所幫助。

增加立法會議席的方案有三：只增加直選議席；大幅增加直選議席的同時亦增加小量的功能組別議席；以及增加同等數目的直選和功能組別議席。

其中一個建議是增加直選議席至六十個，同時維持現有功能組別議席的數目。這樣的話，直選議席將佔議會整體議席三分之二的多數，為將來的民主政制改革以及最終取消所有功能組別議席奠下基礎。

3.4 方案 4：建立兩院制：由功能組別、港區全國人大代表及港區全國政協委員組成上議院，以及由直選議員組成下議院

另一方案是在立法會建立兩院制。上議院由功能組別議員組成，亦可包括港區全國人大代表和港區全國政協委員，而下議院則由普選產生的議員組成。這個方案可參考美國或英國兩院互動的政治制度為藍本。當然，兩院的職權需要清楚界定，上議院可模擬美國權力甚大的參議院，或是英國權力相當有限的上議院。

由於現時立法會議員個人提出的議案、法案和對政府的修正案均須分別經功能團體選舉產生的議員和其他的議員兩部分出席會議議員各過半數通過，上述兩院制的方案實際上是建基於現行的安排。

若兩院擁有相約的權力在運作上會較為遲緩，亦可能導致政府的癱瘓。此外，由於大部份功能組別只數目很小的選民組成，這樣的安排很難令人信服，而上議院亦無可能擁有如由直選產生的下議院同樣的認受性和代表性。

3.5 方案 5：立法會議席全面直選

社會上對在二零零八年全面直選立法會所有議席有一定的訴求，而這個方案亦是目前政制改革檢討中十分重要的一部份。若這個最終目標需要延遲實現，則當局必須考慮上述的方案作為過渡性的安排。

3.6 立法會的選舉辦法

若立法會在二零零八年後仍然保留功能組別議席，功能組別的民主化和擴大其選民基礎是必須考慮的問題。所有僱員和工人應該與企業家和僱主同時有權參與功能組別的投票。

現行立法會的直選安排亦有檢討的需要，特別是如果直選議席有一定程度的增幅。在欠缺成熟的政黨制度下，就在擁有多個議席的中型選區，選民只能從很多

張候選人名單中選擇一張，這樣的安排有明顯的局限；若同一選區擁有超過五個議席而出現多張名單，投票過程會變得十分混亂。

以上提出需要改變選舉辦法的考慮，必須與不斷變更選舉辦法帶來的弊端同時衡量。自從本港引進地區直選以來，選舉安排已經作出四次的變更，這樣頻繁的改變令市民對選舉過程的認識模糊，市民亦無從認同某種選舉辦法。鑑於《基本法》的規定，改變是不能避免，但為日後選舉安排的變更訂立一個明晰的藍圖將有助把干擾減到最低限度。

增加直選議席較合理的做法是增加選區數目，該數目可增至十八個而與區議會的數目銜接。

另一方案是重新引進單議席單票制。但這個安排可能會徹底改變立法會內的政治生態，因為這將會促成兩黨制和立法會內穩定多數的出現。在現行制度下，獨立候選人和規模較小的政黨仍有贏取議席的可觀勝算，為獨立候選人和小型政黨提供了生存空間。

第四章：行政立法關係

與很多海外政治體制比較，香港的立法會享有相對有限的權力。由於香港特別行政區將逐漸實現全面民主，政制改革不可能只局限在選舉制度的層面上，其中一項重要改革是行政機關與立法機關的關係。

4.1 提案的權力

根據《基本法》(第七十四條)，立法會議員只可提出「不涉及公共開支或政治體制或政府運作」的法律草案，「凡涉及政府政策者，在提出前必須得到行政長官的書面同意」。在立法會民主化的前提下，這樣的限制實在無法令人信服，而在行政長官不是由普選產生的情況下更甚。當局應考慮增加立法會的權力，包括提出私人條例草案的權力。

4.2 立法會的表決程序

再者，現時立法會的表決程序規定，任何由議員提出的動議、法案及修訂議案均需要得到超過一半出席的功能組別以及由地區直選產生的兩組議員同時通過(二零零四年選舉後將沒有選舉委員會產生的議員)；即使同時增加功能組別和直選議席，這種制度的維持仍會遭受重大的壓力。

4.3 政府在立法會內的多數支持

維持政府的暢順運作依靠立法會內穩定多數的支持。在特首董建華的第一屆任期，政府得到親政府政黨的支持。這三個親政府政黨的領袖獲委為行政會議的成員。但這項安排的基礎薄弱，它們對政府的支持並不穩定，政府往往需要在背後進行大量的討價還價工作。行政會議內政黨成員在公眾表達不滿情緒後的離任突顯了這個制度的薄弱基礎。

隨著直選議席的增加，政府在立法會內維持穩定多數的支持將愈加困難，而現行有利於獨立人士和規模較小政黨的直選制度亦會使這個問題進一步惡化。為了爭取游離的關鍵票以取得到多數支持，政府可能需要對一小撮獨立議員和小政黨作出重大讓步，情況可能會和以色列國會相像。以色列國會內有多個規模很小的政黨，由於它們擁有組成執政聯盟所需的關鍵票，它們影響力之大往往與其規模不成比例。

當大多數或全部的立法會議席由直選產生，行政長官有可能不能在立法會取得穩

定多數的支持，甚至要面對多數議席為反對派掌握的挑戰。如果出現這種情況，香港將要面對如法國總統所面臨的因反對黨佔據國會內多數議席而出現的「共治」局面。

鑑於上述的討論，政府應考慮各種行政和立法機關關係的方案。在持續民主化的前提下，認受性／代表性、監察與制衡、政府的穩定性和效率均是重要的考慮。

4.4 方案 1：維持現時由親政府政黨及無政黨背景的主要官員組成執政聯盟

雖然香港特別行政區政府不是由執政黨組成，但在行政會議內，親政府政黨領袖、無政黨背景的問責官員、以及一些委任成員組成了一個鬆散的執政聯盟。

這樣安排的好處是使行政機關能夠更有彈性地挑選不同界別的精英加入政府。在這種制度下，行政長官超越政黨政治，理論上因而可以號召社會各方的支持。但由於這項安排並非建基於意識形態或政治取態上清楚的共識，聯盟內的政黨為吸引選民要承受著相當的壓力，而政府未必能吸納其政策建議從而滿足它們的要求。這些政黨不時公開反對政府的立場、甚至在立法會上公然批評政府。

4.5 方案 2：由擁有立法會多數議席的政黨或聯盟組成政府

另一方案是由在議會內擁有多數議席的政黨或聯盟組成政府。不過，只要立法會的選舉辦法和組成維持不變，個別政黨很難成為多數黨或組成穩定的多數聯盟。假若立法會所有議席皆由直選產生，出現多數黨或組成多數黨聯盟的可能性會大大提高。再者，若以單議席單票制進行直選，這個可能性將會更高。在這種情況下，兩黨制或兩大政黨聯盟的出現大有可能。

至於行政長官與立法會的關係，若行政長官能夠取得多數黨或多數黨聯盟的支持，政府運作將會穩定而有效率。但若行政長官需要面對由反對派掌控的立法會，政府將要面對很大的困難。不過，在現有的政制安排下，行政長官對取得立法會多數支持並沒有把握；而隨著立法會議席的增加，要取得立法會多數支持會越加困難。

4.6 方案 3：由多個政黨組成政府

除正式改革現行制度外，亦可考慮擴大執政聯盟的基礎。行政長官可委任多個政黨領袖和較具影響力的獨立議員進入行政會議，增加在立法會取得多數支持的機會。不過，這樣的安排需要行政長官就建立共識擁有高度的政治技巧，不過政府在立法會內的穩定多數支持依然不能獲得保證。

假設行政長官由普選產生，而大部份政黨能夠維持務實和溫和的政策路線，這或許是一個可行的方法。但這樣的安排亦有可能令立法會內的爭辯不休首先在行政會議內出現，對政府的有效運作無疑會產生負面影響。

總括而言，在《基本法》的框架下，行政立法關係存在著頗為棘手的問題，在現階段實難提出理想的解決方法。如果就朝著總統制或議會內閣制有較清晰的發展方向，對解決問題會有所幫助。

第五章：政黨的角色及公民社會的發展

民主政制的建立有賴發展成熟、有效率和擁有廣泛群眾基礎的政黨。政黨招攬政治人才、整合社會上不同意見、以及促進市民就各項政策上的不同意見建立共識；故此，缺乏有效的政黨，社會將難以整合。一九九一年立法會開始引進小量議席的直選，現存的政黨（包括它們的前身）歷史尚短；與此同時，很多會社、社團、慈善團體、政團和其他民間團體亦相繼發展起來。傳媒活躍地討論政府政策和社會議題，市民透過示威活動表達他們的不滿。很多民意調查均顯示公民責任的意識，或許包括最近市民對政府的不滿，使各項選舉取得令人滿意的投票率。

然而，香港公民社會的發展仍然落後於很多已發展及發展中國家。雖然香港的示威活動頻繁，但除了一九八九年六四事件和二零零三年「七·一」的大型示威外，示威的規模往往很小，政黨成員人數亦一直維持在十分低的水平。由於缺乏資源，它們往往只懂批評而未能提出實質的建議，或者說，他們缺乏提出實質政策建議所需的研究資源。支持公共政策討論的資源，如政策研究中心等，十分有限，結果往往令政黨不能深入探討問題，甚至在個別議題上完全缺乏討論。此外，很多諮詢組織未能發揮最大作用，收集意見的渠道效率欠佳。

現行的政治制度對推動公眾政治參與不能發揮作用。如果選舉制度能夠有所改變，引進行政長官普選和立法會議席全面直選，正式與非正式的公眾政治參與將會大大地提高，而政黨亦會有更好的發展基礎。

規範行政長官選舉的法例訂明，行政長官當選後必須退出政黨，這項安排與所有民主國家和中國大陸的慣常做法大相徑庭。

另一方面，自二零零四年起，政府對立法會選舉的經費，將會提供部份補助。這無疑是一項進步的措施。

在各界正思量憲政安排的同時，亦不應忽略探討政黨的角色和公民社會的發展。

訂立政黨法可以作為一個起步點。現時政黨普遍根據有限公司條例或社團條例註冊。這不單並不妥當，更模糊了政治與商業活動的界線。當局應給予政黨更明確的地位並以政黨身份正式註冊。

此外，政府對民間團體發展的支持亦十分重要；政府應聆聽它們的意見和為它們提供所須的資源，包括舉行會議的場地和透過大眾傳媒表達意見的渠道等；而增強諮詢組織的代表性亦對此有所幫助。

第六章：地方行政

隨著特區政府於一九九九年取消市政局及區域市政局，並承擔起它們的大量工作，從前存在的地方行政層級已告消失。雖然區議會仍然存在，但它們只扮演諮詢角色。鑑於立法會議員的地位較為顯著，區議員的諮詢角色甚至比較過去還遜色。

在大部份國家，地方行政機關均被委以重要的功能。權力的下放使市民對其地方管治者有更強的認同，地方行政機關因而更有問責性，其所推行的政策亦更能切合該地區的需要。地方行政機關的弊端在於可能出現資源重疊，致使不能達致規模經濟，而各地區之間的不同規定和程序亦可能對各項經濟活動產生負面影響。

有論者認為，香港的面積有限，根本無需要建立地政行政層級。但是，地方行政層級的建立將無疑有助促進地區民間活動的發展和市民對社區的認同。更多不同地區反映其需要和意見，亦有助完善整體的政策制定。香港很多政府服務，不論是教育或衛生設施，均由全港性的大型機構提供，它們既不能緊貼居民，也缺乏競爭。權力下放可有助改善服務質素，而引入地區之間的競爭亦對資源的有效運用有所裨益。

假若香港重新引入地方行政層級，我們必須認識從前模式的弊端。市政局及區域市政局享有相當有限的權責，當中主要與康樂和衛生事宜有關。批評者曾指出它們的工作與其所享有的龐大財政資源並不相稱，因此，我們有需要重新探討地方行政機關所應擔當的角色。

6.1 方案 1：維持現狀 – 最小規模的地區行政

根據這方案，地方行政機關維持其現有的最低限度規模，區議會亦只擔當諮詢的角色。

6.2 方案 2：恢復原有市政局／區域市政局模式

從前的市政局及區域市政局可考慮再次成立，並維持其本來有限的權力。

6.3 方案 3：引進擁有一定行政權力的新地方行政層級

地方行政機關的正常模式應包括更大執行政策權力的下放，舉例而言，地方行政機關在提供公共醫療和公屋服務方面應被賦予更大的責任。這樣的安排可能涉及將現有的全港性機構，如房屋委員會和醫院管理局，分為若干的地區服務單位。

在地方行政的層面，可考慮予在區議會內佔有大部份議席的政黨或政黨聯盟一定的權力和管理區內的事務。它可以成立一個執行委員會，而民政事務處則負責協助執行委員會的運作。

第七章：公眾諮詢的監察及民意評估

現時香港的政制缺乏認受性，因此，就建議中的政制改革所進行的公眾諮詢亟須為廣大市民認同。恰當的公眾諮詢過程，將會為改革本身以及整體的政制帶來認受性。

7.1 方案 1：政府成立「民意評估辦事處」進行公眾諮詢

香港政府一向以綠皮書的方式就有關政制改革的問題諮詢公眾。社會普遍期望政府能夠發佈正式的諮詢文件，臚列所有可行方案，讓公眾以較有系統的形式，透過清楚界定的渠道就文件的內容表達意見。推出正式的諮詢文件將有助市民瞭解各個方案的利弊和所牽涉的問題，更有助以民意調查的方式將公眾的意見量化。為了準確及全面地掌握公眾表達的意見，政府可成立「民意評估辦事處」。關心政制發展的市民可向辦事處表達其意見，而辦事處將會負責收集意見撰寫報告。民意評估辦事處將會向一個由有聲望的社會領袖組成的委員會負責，而委員會將會指導辦事處職員處理公眾提交的意見書以及出版報告的工作。

成立民意評估辦事處的好處在於有一個專門組織負責收集和評估公眾意見，以及撰寫報告書。辦事處應有足夠的資源以鼓勵及促進有關議題在社區的討論。如果委員會成員由行政長官委任，其中立性和客觀性很容易受到質疑。因此，由行政長官提名並由立法會通過其委任是一個較易為社會接受的選擇。

7.2 方案 2：公眾論壇

政府可考慮於全港十八區舉行公眾論壇。各區議會及民政事務處應扮演積極的角色，鼓勵市民踴躍發表意見；政府亦應歡迎和支持各社會團體討論有關議題和舉辦公眾論壇，就政制改革鼓勵市民發表意見。

7.3 方案 3：立法會聽證會

與此同時，立法會亦可舉行有關政制改革的聽證會和發表報告書。

7.4 方案 4：民意調查

香港政府過去曾委託辦理多項有關市民對政制改革意見的民意調查。為了保證民意調查的中立性，政府應把委託辦理民意調查的工作交由民意評估辦事處處理。該辦事處應不能夠免受政府影響，獨立處理委託辦理民意調查的工作。

7.5 方案 5：制憲會議

很多海外國家均曾舉行制憲會議，探討如何進行政制及/或憲制改革。政府應歡迎並支持民間團體舉辦的制憲會議。

7.6 方案 6：綜合以上各方案

由於以上各方案並不互相排斥，公眾應積極考慮以上所有或部份方案的同時進行。

總結：未來的路向

這份文件勾劃出香港特區政治改革的各種選項。雖然文件在有限資源的條件下完成，但希望它可以作為一個起點，供公眾討論和探討各項改革建議的優劣。

任何政治制度均須與時俱進，而改革過程應以社會的普遍訴求為依歸。政制改革一定要建基於社會的普遍支持，而政府進行公眾諮詢也要保證市民的意見能得到充份的尊重。