

*Ken Bridgewater*

25 May 2004

Sir Donald Tsang Yam-kuen, Chief Secretary,  
Constitutional Development Task Force,  
Constitutional Affairs Bureau,  
3/F, Main Wing,  
Central Government Offices,  
Lower Albert road,  
Hong Kong.

*Dear Sir Donald,*

### **Constitutional Development Task Force Reports - Definitions**

I am concerned that the lack of definition of terms used in the 2<sup>nd</sup> and 3<sup>rd</sup> reports of the Constitutional Development Task Force may cause confusion and might even lead to the reports becoming self-defeating.

I was trained that in writing a report it was fundamental that any term whose definition was uncertain needed to be defined in the context of the report. This is always done in legal drafting. In the reports in question I feel that this applies to terms such as "Executive-led", "Universal suffrage", "Direct election" and "Indirect election". There may be others.

**Executive-led.** Does this mean led by the Chief Executive or led by the Executive Council? If the former then what is the difference between the Chief Executive and a Dictator? The term needs to be defined in the context of the reports.

**Universal suffrage.** My dictionary says this means that everyone (eligible) has the right to vote. In Hong Kong, however, only those who register have the right to vote (in the geographical constituencies). Is this universal suffrage or not? Furthermore, are the choice of candidate and the counting system part of the definition. For example, if the electorate is presented with inadequate candidates is that universal suffrage? Can the American system be described as universal suffrage when the candidate with the popular vote can lose the election? My attention was particularly drawn to the lead article in today's SCMP regarding your forum yesterday, which states "...Beijing rejected universal suffrage for ... the Legco elections ... in 2008." In the letters page in the same issue a correspondent writes "Is Beijing's decision to rule out universal suffrage ...?" Both these could be interpreted that Beijing intends to withdraw universal suffrage from the existing geographical constituencies. Your Task Force reports, however, do not say this, as apparently you work to a different, though unstated, definition from

the respondents. The term needs to be openly defined in the context of the reports, giving an authoritative definition for general use.

**Direct election.** I have always taken this to mean an election in which individuals vote directly for a candidate. Appendix 3 to the 3<sup>rd</sup> Report makes it clear that this is the case in some 20 of the functional constituencies. The report stresses the split in LegCo as being 30:30, geographical:functional. Yet the term "direct election" is only applied to geographical constituencies. If it were to be applied to the functional constituencies so defined in Appendix 3 as direct elections then the split in LegCo is in fact 50:10 direct:not direct. This is confusing. The term needs to be defined in the context of the reports.

**Indirect elections.** I have always taken this to mean that there is a popular vote or survey for a person or persons representing the people in the sector, which a representative may use to guide him in the actual vote. This is indeed how the Chief Executive was elected in 1997. In 10 of the functional constituencies, however, the representative, often a chairman or CEO, is under no obligation to consult the people in his sector. If he does not, then those people have played no part whatever in the election. It cannot thus be an indirect election, though the reports seem to suggest it is. Indeed, if the corporate or body vote is the source of the vote then it could be described as a direct election (depending on how that term is defined) in which case every LegCo seat is currently filled by a direct election. The term "indirect election" needs to be defined in the context of the reports.

My concern is that people commenting on the reports in areas involving these ill defined terms may use a different definition from the Task Force assessor, rendering the comment valueless or possibly contrary to the intentions of the author. I strongly recommend that the Task Force issue an addendum to the reports precisely defining these and any other ill defined terms for public information, otherwise there may be a risk that certain politicians might take advantage of the confusion and accuse the Task Force of deliberately causing it so that they can draw any conclusions required of them by higher authority. I trust this is not the case.

Yours sincerely,

(Signed)