

1 August 2005

Mr Rafael Hui, GBS JP  
Chief Secretary for Administration  
Government of the Hong Kong SAR  
Central Government Offices  
Lower Albert Road  
Central, Hong Kong

Dear Mr Hui,

### **Constitutional Development**

#### **Functional Constituencies for All Salary Taxpayers**

Recent press speculations suggest that the Government might be seriously contemplating introducing new Legislative Council ("LegCo") functional constituencies for women's groups, youth organizations, district board members (including unelected appointed members) and a number of industry sectors in 2008. If true, this plan would represent development definitely in the wrong direction. Giving more LegCo seats to such unrepresentative groupings, while leaving the great majority of our working population in the cold, would not only be highly inequitable and alienating but would also be a sad waste of a golden opportunity for Hong Kong to take an imaginative yet orderly next step in constitutional development.

I am writing to urge you to consider implementing my proposal ("Proposal") for creating five new LegCo functional constituencies for all salaries taxpayers in Hong Kong. Details of the Proposal were set out in my submission to the Constitutional Development Task Force on 17 February 2005.

## Summary of the Proposal

The Proposal envisages –

- ◆ five new functional constituencies of salaries taxpayers, the electors of each of which will have, in aggregate, borne a roughly equal proportion of the tax burden – approximately 20% of the Government's total salaries tax receipts;
- ◆ each and every salaries taxpayer being qualified for registration as an elector in one of the five proposed "Salaries Taxpayers Functional Constituencies" in accordance with the average amount of salaries tax historically paid by him or her to the Hong Kong SAR Government *per annum* on the basis of the following schedule:

<u>Average amount of salaries tax paid per annum (HK\$)</u>	<u>Corresponding functional constituency</u>
0.01 to 10,000.00	Salaries Taxpayers (First) Functional Constituency
10,000.01 to 50,000.00	Salaries Taxpayers (Second) Functional Constituency
50,000.01 to 100,000.00	Salaries Taxpayers (Third) Functional Constituency
100,000.01 to 200,000.00	Salaries Taxpayers (Fourth) Functional Constituency
200,000.01 and above	Salaries Taxpayers (Fifth) Functional Constituency

- ◆ over one million new functional constituency electors, enabling most Hong Kong families to have at least one member qualifying for functional constituency electoral registration;
- ◆ a ten-year qualifying period (and average annual tax payment-calculating period) coinciding conveniently with the first ten years after the establishment of the Hong Kong Special Administrative Region (1 July 1997 to 30 June 2007);

- ◆ each elector having one equal vote within the one “Salaries Taxpayers Functional Constituency” to which he or she belongs, making the election process similar to current practice in respect of the existing functional constituencies;
- ◆ no change at all to the existing 28 functional constituencies and their 30 LegCo seats and their respective electoral process.

### Advantages

The Proposal carries a number of clear, unique advantages:

#### *1. Substantial real advancement in democracy*

Implementation of Proposal will give “an extra vote” to over one million salaried workers and should therefore go a long way towards meeting calls from various quarters for an acceleration of democratic development in the Hong Kong SAR. The proposed dramatic expansion of the functional constituency electoral base will result in the direct and indirect (through family members) involvement of almost the entirety of our community in functional constituency elections in 2008, and consequently in an enhancement of the sense of legitimacy to which the public will attach to the functional constituency electoral system. I expect these public-support considerations to be helpful in securing sufficient supporting LegCo votes to ensure the enactment of the necessary legislation. Few politicians would wish to be perceived as being obstructive to the Government’s legitimate effort in increasing political representation for over one million voters.

No other realistic idea being put forward in the community even comes close to the Proposal in terms of enabling our community to take such a big step forward in the development of our democracy in 2008.

#### *2. Preservation of stability and existing balance of power*

Prevailing vested interests will be completely protected under the Proposal through the preservation of all existing functional constituencies and their respective voting arrangement in 2008. In spite of having an innovative approach to constitutional development as heart of the Proposal, the net impact of its implementation, in terms of the balance of

voting power in a slightly-restructured LegCo, will be small. It is therefore good for the maintenance of continuing political stability in the SAR.

### **3. *Fair treatment of the middle class***

A major weakness in our existing political system is an inherent bias against the middle class, which has given rise to much resentment and, occasionally, political instability in the past few years. Implementation of the Proposal will give our middle class workers – all of them, and not just a selected few who are fortunate enough to happen to qualify as electors in one of the existing narrowly-based functional constituencies – dedicated representation on LegCo for the first time.

Our educated middle class may be generally conservative and perhaps instinctively pro-establishment; they are however no fools and do react negatively to blatant inequity. Expanding the functional constituency electoral base in an open, objective and transparent manner is therefore critical for securing their support. Nothing less will suffice. In their eyes, a non-professional worker-taxpayer is no less a citizen, and no less important an economic entity to the society, than a qualified teacher, nurse, doctor or lawyer. To them, therefore, an extra functional constituency vote for each and every taxpayer is definitely far preferable to introducing as new functional constituencies still more unelected groups with dubious claims of representation of certain segments of our community (such as women or youth groups or some other closed-shop professions, as mentioned in passing the Fourth Report of the Task Force and speculated recently in the press).

### **4. *Fair treatment of the lower-income taxpayers***

It is worth noting that under the Proposal one of the five proposed new functional constituencies – “Salaries Taxpayers (First) Functional Constituency” – is to be dedicated exclusively for lower-income taxpayers paying on average less than \$10,000 in salaries tax *per annum*, so as to ensure that they have assured and fair representation on LegCo and are not overwhelmed by citizens with higher income and bearing a larger *per capita* tax burden.

## 5. *Institutionalization of representation of the economically-active*

The proposed ten-year qualifying period under the Proposal is of much more than symbolic significance. Not only does it enable many recent retirees, having contributed much to the Hong Kong SAR Government's finances since 1997, to qualify for registration as functional constituency electors, it also increases the likelihood that, in the future, **there will always be some degree of representation on our legislature for the most economically-active residents in our community.** This feature, arguably, is the core spirit and the very *raison d'être* of the whole functional constituency arrangement.

## 6. *Theoretical soundness*

From a theoretical point of view, giving our taxpayers a vote is an intuitively fair way to ensure political representation for our middle class. It aligns, to a small but still meaningful extent, electoral power with contribution to public resources, giving the Hong Kong SAR a better chance to avoid many of the proven flaws and problems of Western democracies, including in particular institutionalized fiscal profligacy, uncontrollable government expenditure, and a heavy and unsustainable public sector debt burden. The LegCo members answerable directly to the taxpayers are also expected to impose additional fiscal discipline on our politicians and on our community as a whole; such discipline will very much support and complement the requirements for prudent public sector finance lay down in the Basic Law. Furthermore, adoption of the Proposal will also signal to the world that the Hong Kong SAR can perfect its own democratic capitalism without blindly copying Western political structures and democratic processes.

## 7. *Ease of implementation in practice*

The establishment of five new functional constituencies under the Proposal should be a straight-forward and mechanical, if somewhat laborious, process. Unlike many other ideas for new functional constituencies being put forward in the community (such as women or youth groups or industry sectors with low or no professional entry barriers), qualification for registration under the Proposal – which is dependent on the actual amounts of salary tax paid in the past – will simply be a matter of official factual record at the Inland Revenue Department. Disputes as to qualification of electors, which could throw

doubt on the integrity and legitimacy of the whole electoral arrangement, are unlikely to pose much of a problem.

Implementation of the Proposal is logistically and administratively simple. It is very much a practicable and realistic proposition for 2008.

#### **8. *Non-discriminatory approach***

Under the Proposal, qualification for registration as an elector in any one of the five proposed new "Salaries Taxpayers Functional Constituencies" will be a matter of historical fact and official record (in the Inland Revenue Department), and will be completely independent of the gender, age and family status of an individual.

Unlike ideas involving the establishment of functional constituencies for women's groups or youth groups, implementation of the Proposal is highly unlikely to be subject to subsequent judicial or moral challenges on grounds of discrimination.

#### **9. *Full compliance with the decision of the Standing Committee of the National People's Congress***

Lastly but most importantly, the Proposal is obviously in full and complete compliance with the relevant decision of the Standing Committee of the National People's Congress, both in letter and in spirit.

### **Conclusion**

The Proposal offers Hong Kong a historic opportunity to advance democracy substantively in an innovative but practical, orderly and low-risk fashion in 2008, putting Hong Kong at the forefront of the development of global democratic capitalism. Giving one extra vote to over a million taxpayers is likely to prove very popular with a large and socially and economically important segment of our population. The open, transparent and objective registration criteria for the proposed new functional constituencies will also appeal to, or at least be accepted as fair by, many others. With such anticipated public support, the Proposal should stand a reasonable chance of being ultimately supported by a sufficient number of LegCo members.

Please do not let Hong Kong forego this great opportunity in 2008. I urge you to consider seriously adopting the Proposal for creating five new LegCo functional constituencies for all salary taxpayers in Hong Kong.

Yours truly,

(Signed)

**Chester Kwok**