

**The Fifth Report of the
Constitutional Development Task Force :**

**Package of Proposals for the
Methods for Selecting the Chief Executive
in 2007 and for Forming the Legislative
Council in 2008**

October 2005

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Chapter One : Introduction

- 1.01 On 7 January 2004, the Constitutional Development Task Force (“the Task Force”) was established to take forward matters on constitutional development. The Task Force is headed by the Chief Secretary for Administration and its members include the Secretary for Justice and the Secretary for Constitutional Affairs.
- 1.02 Since its establishment, the Task Force has published four reports in March, April, May and December 2004 respectively. The First Report focused on the issues of legislative process in the Basic Law relating to constitutional development. The Second Report focused on the issues of principle in the Basic Law relating to constitutional development. In accordance with the relevant provisions of the Basic Law and the “Decision of the Standing Committee of the National People’s Congress on issues relating to the methods for selecting the Chief Executive of the Hong Kong Special Administrative Region in the year 2007 and for forming the Legislative Council of the Hong Kong Special Administrative Region in the year 2008”

(hereafter referred to as “the Decision”^{Note1}), the Third Report set out a number of areas which may be considered for amendment in respect of the methods for selecting the Chief Executive and for forming the Legislative Council.

^{Note1} On 26 April 2004, in accordance with the relevant provisions of the Basic Law and “The Interpretation by the Standing Committee of the National People’s Congress of Article 7 of Annex I and Article III of Annex II to the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China”, the Standing Committee of the National People’s Congress made the following Decision :

- (1) The election of the third Chief Executive of the Hong Kong Special Administrative Region to be held in the year 2007 shall not be by means of universal suffrage. The election of the Legislative Council of the Hong Kong Special Administrative Region in the fourth term in the year 2008 shall not be by means of an election of all the members by universal suffrage. The ratio between members returned by functional constituencies and members returned by geographical constituencies through direct elections, who shall respectively occupy half of the seats, is to remain unchanged. The procedures for voting on bills and motions in the Legislative Council are to remain unchanged.
- (2) Subject to Article 1 of this Decision not being contravened, appropriate amendments that conform to the principle of gradual and orderly progress may be made to the specific method for selecting the third Chief Executive of the Hong Kong Special Administrative Region in the year 2007 and the specific method for forming the Legislative Council of the Hong Kong Special Administrative Region in the fourth term in the year 2008 according to the provisions of Articles 45 and 68 of the Hong Kong Basic Law and the provisions of Article 7 of Annex I and Article III of Annex II to the Hong Kong Basic Law.

1.03 The Task Force published the Fourth Report on 15 December 2004, which set out and summarized the views and proposals collected from the community on the methods for selecting the Chief Executive in 2007 and for forming the Legislative Council in 2008. Some follow-up questions were also set out. The Task Force then proceeded immediately with wide public consultation, and invited different sectors of the community to provide further views on the basis of the Fourth Report. The consultation period ended on 31 May 2004, covering five and a half months.

Chapter Two : Public Consultation on the Fourth Report

- 2.01 Shortly after the release of the Fourth Report, the Task Force briefed the Legislative Council Panel on Constitutional Affairs on the Fourth Report and its work on 20 December 2004.
- 2.02 The Task Force used a wide variety of open channels to collect views from different sectors of the community. The Task Force appealed to organizations and individuals to forward, by post, facsimile, or e-mail their views and proposals on the issues set out in the Fourth Report or any other related issues. More than 450 submissions were received during the consultation period.
- 2.03 To facilitate different sectors of the community to discuss further the issues set out in the Fourth Report, the Task Force commissioned the Home Affairs Department to organize two open forums on 25 January and 3 March 2005 respectively for members of the public to participate and to express their opinions. Around 400 members of the public participated in these two events.

- 2.04 Further, from January to March, the Home Affairs Department organized four regional forums on Hong Kong Island, and in Kowloon, New Territories East and New Territories West respectively. Over 330 individuals participated in these forums, including members of District Councils, members of Area Committees, representatives of owners' corporations and mutual aid committees, students, professionals and the middle class, and representatives of local organizations.
- 2.05 During the same period, from January to March, the Secretary for Constitutional Affairs and his representatives attended three public hearing sessions of the Panel on Constitutional Affairs of the Legislative Council as well as meetings of all the 18 District Councils, to receive directly the views of different sectors of the community and those of District Council members.
- 2.06 To enhance transparency, the media were invited to cover the two open forums as well as the reporting sessions of the four regional forums. Video footages of the open forums and the regional forums, as well as discussion summaries of the regional forums and extract of notes of meeting with District Councils have been uploaded onto the Constitutional Development Website (www.cab-review.gov.hk) for public reference.

- 2.07 Members of the Task Force have met representatives from 16 organizations and one individual upon their request. These meetings provided an opportunity for the concerned parties to elaborate further to the Task Force their written submissions.
- 2.08 The full text of the views and proposals collected during the consultation period regarding the methods for selecting the Chief Executive in 2007 and for forming the Legislative Council in 2008 are included in the following appendices:

Appendix I: written submissions and proposals from members of the public and organisations through various means, including those forwarded by e-mail and facsimile.

Appendix II: discussion summaries of the four regional forums held on 29 January (New Territories East), 5 March (New Territories West), 19 March (Hong Kong Island), and 23 March (Kowloon).

Appendix III: extracts of notes of meeting with the 18 District Councils.

The appendices can be viewed at District Offices or the Constitutional Development Website.

2.09 Apart from the views included in Appendices I, II and III, the Task Force continued to receive submissions from various organizations and individuals on the two electoral methods after the consultation deadline of 31 May 2005. Since these views were received after the deadline, the Task Force has not reflected them in Chapters Three and Four of this Report. Nevertheless, copies of these submissions are included in the Addendum to Appendix I for public reference.

Chapter Three : Public Views on the Method for Selecting the Chief Executive in 2007

3.01 The Task Force set out and summarized in the Fourth Report the views and proposals collected from the community on the areas which may be considered for amendment in respect of the method for selecting the third term Chief Executive in 2007. A number of follow-up questions were also raised. This Chapter provides an account of the views and their justifications mentioned more frequently by members of the public on the relevant areas set out in the Fourth Report. The full set of views received by the Task Force is in the Appendices to this Report.

(I) The Number of Members of the Election Committee

3.02 There are many views that the number of members of the Election Committee should be increased. The main justifications are:

- (1) to enhance the representativeness of the Election Committee;

- (2) to allow wider public participation;

- (3) to be consistent with the principle of gradual and orderly progress and balanced participation; and
- (4) to serve as a transitional arrangement leading to universal suffrage.

- 3.03 On specific numbers, there are many views which suggest an increase to 1 200. There are also many views which suggest an increase to 1 600. Views suggesting the latter are more than those suggesting the former. The reasons for these views are that an expanded Election Committee would allow wider public participation and enhance the representativeness of the Election Committee. There are also views that this would be in keeping with the principle of gradual and orderly progress.
- 3.04 There are also views which suggest other specific numbers, but the quantity of such views is significantly less than the above.

(II) The Composition of the Election Committee

- 3.05 Pursuant to Annex I to the Basic Law, the Election Committee is composed of members from the following sectors:
- Industrial, commercial and financial sectors 200
 - The professions 200
 - Labour, social services, religious and other sectors 200

- Members of the Legislative Council, representatives of district-based organizations, Hong Kong deputies to the National People's Congress, and representatives of Hong Kong members of the National Committee of the Chinese People's Political Consultative Conference

- 3.06 On the arrangement for the composition of the Election Committee, there are quite a number of views that the composition of the four existing sectors should be maintained. The reasons for these views include ensuring balanced participation and representation of the interests of different sectors of the community. However, there are also views that the existing four sectors should be reorganized or that new subsectors should be added.
- 3.07 Furthermore, there are many views that the number of members allocated to the four sectors should be adjusted, and various proposals are put forth, including many views which suggest that the number of District Council members in the Election Committee should be increased. Among these views, there are quite a number which suggest that all District Council members should be included. The reason is that District Council members have a public mandate, and through their participation, members of the public, in particular grassroots interests, would have an enhanced representation in the Election Committee. There are also quite a number of views that some District Council members should be included; among

these views, there are views that only elected members of District Councils should be included.

- 3.08 Moreover, there are views that the number of members allocated to the Heung Yee Kuk subsector should be increased. The reason is that members of Rural Committees and Village Representatives in the New Territories are returned by elections, are quite representative and have a public mandate. There are also views that the number of representatives of the Hong Kong members of the National Committee of the Chinese People's Political Consultative Conference should be increased.
- 3.09 There are many views that new subsectors should be added to balance the interests of the various social strata; and there is a plethora of proposals. There are quite a number of views that a new subsector for women should be included. There are views that small and medium enterprises and real estate agents should be included to reflect their contribution to Hong Kong's economy. There are views that youths and various community and local organizations, including owners' corporations, local community organizations, Area Committees, and kaifong associations should be included to reflect their views. There are also views that a subsector for the middle class should be included.
- 3.10 Apart from the above, there are dozens of other new subsectors proposed by various organizations and individuals. These proposals can be found in the Appendices.

- 3.11 These are views that certain existing subsectors should be reorganized or split in keeping with social development and restructuring.
- 3.12 There are also views that some members of the Election Committee should be returned by direct elections to allow wider public participation in the Chief Executive election.

(III) The Number of Members of the Election Committee Required for Nominating Candidates for the Office of the Chief Executive

- 3.13 Annex I to the Basic Law provides that candidates for the office of Chief Executive may be nominated jointly by not less than 100 members of the Election Committee.
- 3.14 There are the following views on the number of members required for nomination.
- (1) There are many views that the existing requirement of not less than 100 subscribers should be maintained. If the number of Election Committee members is increased, the threshold in proportional terms will in practice be lowered.

- (2) There are views that the number of subscribers required should be maintained at the ratio of one-eighth of total membership. If the number of Election Committee members is increased, the number of subscribers should also be increased to ensure that candidates have sufficient support.
 - (3) There are views that the number of subscribers required should be reduced; the main reason being that this would allow more potential candidates to contest the election.
 - (4) There are views that the number of subscribers should be increased to raise the level of support required of a candidate.
- 3.15 As to whether an upper limit should be set for the number of subscribers, there are quite a number of views that such an upper limit should be set. The main reason is to enable more potential candidates to contest the election. However, views remain diverse on the exact number. On the other hand, there are views that such a limit should not be put in place, so as not to affect the right of members of the Election Committee to nominate candidates. It is also not necessary to restrict the number of nominations that a candidate may obtain.

3.16 Regarding the question of whether candidates should be required to obtain a certain number of nominations from each of the four sectors, there are views which support such a requirement to ensure that candidates have a certain level of support in all four sectors. On the other hand, there are also views that there is no need to impose such a requirement. The main reason is that the nomination mechanism should facilitate more potential candidates having the opportunity to be successfully nominated, rather than limiting their chance of contesting the election.

(IV) The Delineation and Size of the Electorate of the Election Committee

3.17 There are many views that the size and scope of the electorate of the Election Committee should be broadened to enhance its representativeness. This will allow wider participation by different sectors of the community in the Chief Executive election, and will serve as a transitional arrangement leading to universal suffrage.

3.18 There are quite a number of views that consideration should be given to replacing corporate voting by individual voting in the Election Committee subsector elections. The main reason is to enhance the representativeness of, and the level of participation in, the elections. The Task Force has not received many concrete proposals as to how this could be implemented. There are views that voting rights should be

given to responsible persons of companies or corporate bodies. There are also views that they should be given to employees or trade practitioners.

- 3.19 There are views that, in the Election Committee subsector elections, corporate voting should not be replaced by individual voting. The main reason is that this is inconsistent with the original intention of setting up the relevant subsectors.

(V) Other Issues

Political Affiliation of the Chief Executive

- 3.20 There are views that the current requirement that the Chief Executive should not have any political affiliation is appropriate. The existing requirement could ensure that the Chief Executive will uphold fairness and maintain impartiality in his governance.
- 3.21 On the other hand, there are also views that the existing requirement should be abolished. The main reason is that a Chief Executive with political affiliation will be conducive to the development of political parties in the HKSAR.

Timetable for Universal Suffrage

- 3.22 There are many views that a timetable should be set for attaining universal suffrage. This will help the public understand the blueprint for constitutional development, facilitate consensus building in the community and be conducive to the effective governance of the HKSAR.
- 3.23 On the other hand, there are quite a number of views that a timetable for attaining universal suffrage is not necessary. The main reason is that the community is changing rapidly and it is therefore impractical to set a timetable prematurely. Besides, the timing for introducing universal suffrage should be decided in the light of the actual situation in Hong Kong.
- 3.24 There are quite a number of views that the Chief Executive should be elected by universal suffrage in 2007. As this proposal is inconsistent with the Decision of the Standing Committee of the National People's Congress (NPCSC), the Task Force will not process it further.

Chapter Four : Public Views on the Method for Forming the Legislative Council in 2008

4.01 The Task Force set out and summarized in the Fourth Report the views and proposals of the community on a number of areas which may be considered for amendment in respect of the method for forming the fourth term Legislative Council in 2008. A number of follow-up questions were also raised. This Chapter provides an account of the views and their justifications mentioned more frequently by members of the public on the relevant areas set out in the Fourth Report. The full set of views received by the Task Force is in the Appendices to this Report.

(I) The Number of Seats in the Legislative Council

4.02 There are many views that the number of seats for the Legislative Council in 2008 should be increased. The main justifications include:

- (1) to enhance the representativeness of the Legislative Council;

- (2) to enable more people to participate in politics, which would facilitate the nurturing of more political talent in preparation for universal suffrage in future; and

- (3) to meet the actual operational requirements of the Legislative Council, and to contribute to improving the quality and efficiency of its service.
- 4.03 On the other hand, there are many views that the number of Legislative Council seats should remain at 60. However, the number of such views is significantly lower than that in support of an increase. The main justifications for maintaining the existing number of Legislative Council seats are to avoid incurring additional public expenditure and hampering the Council's efficiency. Further, an increase in the overall number of seats will inevitably lead to an increase in the number of functional constituency seats, which is inconsistent with the ultimate aim of universal suffrage prescribed in the Basic Law.
- 4.04 If the number of Legislative Council seats is to be increased, there are many views that it could be increased to 70. The reasons are that this will enhance the representativeness of the Legislative Council, and will encourage more people to contest the elections to share out the workload of the Council. There are also quite a number of views that the number of seats could even be increased to 80. Also, there are views suggesting other numbers, but the quantity of such views is significantly less than the above.

(II) The Number of Seats Returned by Geographical Constituencies through Direct Elections

4.05 Among the views supporting an increase in the number of seats (i.e. the number of seats returned by geographical constituencies through direct elections and that by functional constituencies to be increased by the same number) as mentioned in paragraphs 4.02 and 4.04 above, there are many views that the number of seats returned by geographical constituencies through direct elections should be increased to 35. The additional seats could be allocated in proportion to population, or alternatively one additional seat could be given to each geographical constituency. There are also quite a number of views that the number of seats returned by geographical constituencies through direct elections should be increased to 40. The additional seats could be allocated in proportion to population, or alternatively two additional seats could be given to each geographical constituency.

(III) The Number of Seats Returned by Functional Constituencies

4.06 There are many views that the number of seats returned by the functional constituencies should be increased in the light of the actual situation in Hong Kong. The main justifications are:

- (1) to enable different strata of society to be represented in the political structure, and to give them more opportunities to participate in politics.
 - (2) Members returned by functional constituencies could provide professional expertise to the Council.
- 4.07 On specific proposals, there are many views that the number of seats returned by functional constituencies should be increased from 30 at present to 35. The reason is that this would enable different strata of society to be represented in the political structure. There are also views that the number of seats returned by functional constituencies should be increased to 40.
- 4.08 On the other hand, there are also views that the number of seats returned by functional constituencies should not be increased, or should even be decreased. The main reason is that an increase in the number of seats returned by functional constituencies is inconsistent with the ultimate aim of universal suffrage prescribed in the Basic Law. Also, there is a myriad of suggestions on new functional constituencies, the selection process itself may give rise to controversy within the community.

(IV) The Delineation and Size of the Electorate of the Functional Constituencies

4.09 There are many views that the delineation and size of the electorate of functional constituencies should be broadened. The main justifications are:

- (1) to enhance the representativeness of functional constituency elections; and
- (2) to serve as a transitional arrangement leading to universal suffrage.

4.10 There are views that if there is an increase in the number of seats returned by functional constituencies, consideration should be given to increasing the number of seats allocated to the District Councils. There are also many views that inclusion of certain new functional constituencies could be considered. As to the new functional constituencies to be included, there are many views that a constituency for employers should be established, so that both employers and employees would have their own representatives in the Council. There are quite a number of views that a constituency for Chinese medicine practitioners should be set up to reflect the importance of the sector. There are views that constituencies for Chinese and Chinese-funded enterprises, and small and medium enterprises should be established in view of the importance of these sectors. There are views that

constituencies for women, local community organizations and service agencies for the grassroots should be created to reflect their views.

- 4.11 There are various views that certain constituencies should be reorganized, split or merged. For example, the Finance Functional Constituency and the Financial Services Functional Constituency should be merged; whilst the Real Estate and Construction Functional Constituency, and the Sports, Performing Arts, Culture and Publication Functional Constituency should respectively be spilt.
- 4.12 Apart from the above, different organizations and individuals have submitted dozens of proposals on creation of new functional constituencies and over ten proposals on splitting or reorganizing existing constituencies. Details may be found at the appendices.
- 4.13 There are quite a number of views that consideration should be given to replacing corporate voting by individual voting in functional constituency elections. The main justification is that this could enhance participation in, and representativeness of, the elections. The Task Force has not received many concrete proposals as to how this could be implemented. There are views that voting rights should be given to responsible persons of companies or corporate bodies. There are also views that they should be given to employees or trade practitioners.

4.14 On the other hand, there are also views that corporate voting should not be replaced by individual voting in functional constituency elections. The main reason is that this is inconsistent with the original intention of setting up the relevant functional constituencies.

(V) Provision regarding Nationality of Legislative Council Members

4.15 In accordance with the Basic Law, permanent residents of the HKSAR who are not of Chinese nationality or who have the right of abode in foreign countries may also be elected members of the Legislative Council, provided that the proportion of such members does not exceed 20 percent of the total membership of the Council.

4.16 There are quite a number of views that this provision could be maintained. The reasons are that this would help to maintain the image of Hong Kong as an international city and would enable us to attract talents. Further, the current proportion is reasonable. On the other hand, there are views that the number and proportion of seats which may be returned by individuals who are not of Chinese nationality or who have the right of abode in foreign countries should be gradually reduced and eventually eliminated. This would ensure the allegiance of Legislative Council Members, demonstrate their commitment to Hong Kong, and facilitate the implementation of “Hong Kong people ruling Hong Kong”.

(VI) Other Issues

Timetable for Universal Suffrage

- 4.17 There are many views that a timetable should be set for attaining universal suffrage. This will help the public understand the blueprint for constitutional development, facilitate consensus building in the community and be conducive to the effective governance of the HKSAR.
- 4.18 On the other hand, there are also quite a number of views that a timetable for attaining universal suffrage is not necessary. The main reason is that the community is changing rapidly and it is, therefore, impractical to set a timetable prematurely. Besides, the timing for achieving universal suffrage should be decided in the light of the actual situation in Hong Kong.
- 4.19 There are quite a number of views that all Legislative Council Members should be returned by universal suffrage in 2008. As this proposal is inconsistent with the Decision of the NPCSC, the Task Force will not process it further.

Future of Functional Constituencies

- 4.20 There are many views that functional constituencies should be retained in the long run. The reasons are that functional constituencies could balance the interests of different sectors and strata of the community, and could enable relatively small sectors and strata to be represented in the Council. Moreover, members returned by functional constituencies could make a contribution with their professional expertise. Functional constituencies also facilitate members of the industrial and commercial sectors and the professionals to participate in politics.
- 4.21 On the other hand, there are views that, in the long run, functional constituencies should be abolished. The reasons are that functional constituencies are inconsistent with the ultimate aim of universal suffrage, and that they lack of legitimacy and public participation.
- 4.22 There are views that we should examine the future of functional constituencies including, for example, the election methods and the feasibility of implementing a bicameral system in the Legislative Council.

Chapter Five : Package of Proposals of the Task Force on the Methods for Selecting the Chief Executive in 2007 and for Forming the Legislative Council in 2008

- 5.01 Since its establishment in January 2004, the Task Force has been maintaining close liaison with different sectors of the community and has been listening attentively to their views. It has published four reports and widely collected the views of the public on how the two electoral methods may be amended. Furthermore, the Task Force has maintained communications with the relevant departments of the Central Authorities. The responsibility of the Task Force is to find a point of balance and formulate a proposed package which would be acceptable to all parties, so that Hong Kong's constitutional development could be taken forward.
- 5.02 In formulating its proposed package, the Task Force has had regard to the following principles:
- (i) the proposed package must be consistent with the relevant provisions of the Basic Law and the Decision of the NPCSC of 26 April 2004;

- (ii) the proposed package can provide more room and opportunities for the public to participate in the elections of the Chief Executive and the Legislative Council, and broaden the representativeness of these two electoral systems;
- (iii) the proposed package can take into account views received from different sectors of the community during the consultation period, and can respond to the aspirations of the community on constitutional development;
- (iv) the proposed package can move substantively towards the ultimate aim of universal suffrage; and
- (v) the proposed package can be acceptable to the Central Authorities, the Chief Executive, the Legislative Council and different sectors of the community.

5.03 On the basis of the above, the Task Force sets out in the following paragraphs the proposed package on how the methods for selecting the Chief Executive in 2007 and for forming the Legislative Council in 2008 should be amended.

Method for Selecting the Chief Executive

(i) Election Committee

- 5.04 The Task Force proposes that the number of members of the Election Committee be increased from 800 at present to 1 600. Such an increase would provide more opportunities for members of the public to participate in the Chief Executive election and enhance the representativeness of the Election Committee.
- 5.05 The Task Force proposes that the existing four sectors of the Election Committee be maintained. The number of members to be allocated to the sectors should be as follows:
- | | | |
|---------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------|
| (i) | Industrial, commercial and financial sectors | 300 |
| (ii) | The professions | 300 |
| (iii) | Labour, social services, religious and other sectors | 300 |
| (iv) | Members of the Legislative Council, members of the District Councils, representatives of the Heung Yee Kuk, Hong Kong deputies to the National People's Congress, and representatives of Hong Kong members of the National Committee of the Chinese People's Political Consultative Conference | 700 |
| Total : | | 1 600 |

- 5.06 On the basis of the above allocation method, there will be a respective increase of 50% in the number of members allocated to the First, Second and Third Sectors. This will provide more opportunities for members of the industrial, commercial, financial, professional, labour, social services, religious and other sectors to participate in the political process. As to the allocation of seats among the subsectors under these three sectors, the Task Force considers that, in principle, there could be proportional increase in the seats in accordance with the existing allocation of seats to the subsectors. However, detailed arrangements could be firmed up in the context of the Chief Executive Election (Amendment) Bill.
- 5.07 As to the Fourth Sector, the Task Force proposes that the number of Election Committee members allocated to this sector be increased to 700 as follows:
- | | |
|------------------------------------------------------------|---------------------|
| • all Legislative Council Members | 70 ^{Note2} |
| • all District Council members | 529 |
| • representatives of the Heung Yee Kuk | 22 ^{Note3} |
| • all Hong Kong deputies to the National People's Congress | 36 ^{Note4} |

^{Note2} It is assumed that the number of Legislative Council seats will be increased from 60 to 70. However, since the number of Legislative Council seats will only be increased, at the earliest, in 2008, transitional arrangements will be made under the Chief Executive Election (Amendment) Bill.

^{Note3} The existing number of members is 21. There will be an increase of one seat.

^{Note4} Same as the existing provision.

- representatives of Hong Kong members of the National Committee of the Chinese People's Political Consultative Conference

43^{Note5}

700

- 5.08 Pursuant to Annex I to the Basic Law and the Chief Executive Election Ordinance, District Council members currently elect from among themselves 42 representatives to the Election Committee. The Task Force proposes including all District Council members in the Election Committee. The rationale behind the proposal is that District Council members have a public mandate, and that they are in a better position to understand and reflect the views of the general public on day-to-day livelihood issues. District Council members themselves come from different strata of the community. Of the appointed and elected District Council members in Hong Kong at present, around one-fourth are from the industrial and commercial sectors, around one-fifth from the professional and managerial ranks, whilst the others include teachers, social workers, personalities from the sports and cultural sectors, representatives of trade unions, housewives, representatives of rural communities, and full-time District Council members. The composition of District Councils can be said to be a microcosm of the community at large. It epitomizes the spirit of “balanced participation” and gives full effect to the principle of “looking after the interests of different sectors of the community”.

^{Note5} The existing number of members is 41. There will be an increase of 2 seats.

- 5.09 Furthermore, more than 80% of District Council members are returned by elections. The Councils have a solid public mandate and a relatively high level of “democratic representation”. By enhancing the level of participation of District Council members in the Election Committee, we could ensure that views at district level can be fully reflected, that the representativeness of the Election Committee will be enhanced, and that Hong Kong’s constitutional development can be taken forward towards the ultimate aim of universal suffrage in a gradual and orderly manner.
- 5.10 The Task Force must emphasize that “balanced participation” is not equivalent to “participation in equal numbers”. We cannot, and should not, merely focus on the number of seats allocated to the various strata or sectors of the community. The important point is to ensure that different sectors of the community are represented in the political structure and can participate in politics through various channels, so that the interests of different strata of the community can be looked after.

(ii) Nomination Mechanism

- 5.11 The Task Force understands that there are views that the existing threshold required for nominating candidates should be lowered to allow more potential candidates to contest the election. At the same time, however, the Task Force considers that the purpose of setting a threshold is to ensure that candidates have a certain level of support. The Task Force therefore proposes that, at this stage, the threshold required for nominating candidates be maintained at the existing level i.e. at the ratio of one-eighth of total membership. Under this proposal, if the number of Election Committee members is increased to 1 600, the number of subscribers required shall be not less than 200.
- 5.12 On the question of setting an upper limit on the number of subscribers, the Task Force notes that there is no such requirement in Annex I to the Basic Law. The Task Force considers that we should study in detail whether setting such an upper limit would unduly restrain Election Committee members from exercising their right to nominate candidates. Hence, the Task Force proposes that such a limit should not be set at this stage.

- (iii) Electorate Base
- 5.13 The Task Force proposes that all District Council members be included in the Election Committee. This would mean that more members of the Election Committee would be directly elected by over three million voters in Hong Kong, further enhancing the representativeness of the Election Committee.
- (iv) Requirement that the Chief Executive should not have any Political Affiliation
- 5.14 The Task Force notes that there is no clear mainstream view on the issue amongst different sectors of the community. Further, the Task Force considers that the existing requirement has not impeded effective governance. Therefore, the Task Force proposes that the existing provision be maintained.
- (v) The question of a candidate returning uncontested
- 5.15 According to the existing provisions of the Chief Executive Election Ordinance, if at the close of nominations only one candidate is validly nominated, that candidate shall be declared elected *ipso facto* as Chief Executive. In order to enable members of the Election Committee to fully exercise their voting rights, the Task Force proposes that consideration be given to amending the Chief Executive Election Ordinance to establish an appropriate mechanism whereby, under the above circumstances, election proceedings shall continue.

Method for Forming the Legislative Council

(i) Number of Seats

5.16 The Task Force proposes that the number of seats in the Legislative Council be increased from 60 at present to 70. Pursuant to the Decision of the NPCSC of 26 April 2004, there shall be, respectively, 35 seats returned by geographical constituencies through direct elections and 35 seats returned by functional constituencies in the Legislative Council. This arrangement would provide more opportunities for members of different sectors of the community to participate in politics. This would also enable more Members to share the increasing workload of the Legislative Council.

(ii) Number of Seats Returned by Functional Constituencies

5.17 The Task Force considers that before the community has had thorough discussion on the future of functional constituencies, changes to the existing functional constituencies should not be contemplated lightly. The Task Force proposes that all the newly added functional constituency seats be returned through election by District Council members from among themselves. Accordingly, the number of seats returned by the District Council Functional Constituency shall be increased from one at present to six. As regards the electoral method to be adopted (for example, a block vote system or a proportional representation system), this may be dealt with in the context of

the Legislative Council (Amendment) Bill according to Annex II to the Basic Law.

- 5.18 Under the Legislative Council Ordinance, the District Council Functional Constituency is one of the existing functional constituencies of the Legislative Council, with all District Council members electing from among themselves a representative to LegCo. In fact, district organizations have been included as functional constituencies in the legislature for a long time. District Councils advise the Government on matters concerning their respective districts, and promote environmental improvement, recreational, cultural and community activities in the districts. The establishment of a District Council Functional Constituency with District Council members electing from among themselves representatives to the Legislative Council is fully consistent with the original intention of functional constituencies. As mentioned in paragraphs 5.08 to 5.10 above, District Council members come from different strata of the community and have a public mandate. They can look after the interests of different sectors of the community. By increasing the number of their representatives in the Legislative Council, it would help Hong Kong's political structure move towards the ultimate aim of universal suffrage in a gradual and orderly manner.

5.19 The Task Force has also considered carefully whether other new functional constituencies should be included. The Task Force notes that there is a plethora of specific proposals and that it would be very difficult to fully satisfy all these proposals. Besides, some of these proposals are not able to broaden the electorate base effectively. By comparison, increasing the number of seats allocated to the District Council Functional Constituency would not only realize the principle of “balanced participation”, but could also substantively and effectively take forward Hong Kong’s constitutional development towards the ultimate aim of universal suffrage in a gradual and orderly manner. Accordingly, the Task Force does not propose adding any new functional constituencies.

(iii) Direct Elections by Geographical Constituencies

5.20 The Task Force proposes that the number of seats returned by geographical constituencies through direct elections be increased from 30 at present to 35. As to the allocation of the geographical constituency seats, pursuant to the relevant provisions in Annex II to the Basic Law, this may be specified by local legislation, i.e. in the context of the Legislative Council (Amendment) Bill.

5.21 In general, the number of geographical constituencies, the total number of Members to be returned for all geographical constituencies, and the upper and lower limits on the number of Members to be returned for each geographical constituency are all specified in the Legislative Council Ordinance. On the basis of these three parameters, the Electoral Affairs Commission, an independent statutory body, is responsible for reviewing the delineation of geographical constituencies and the number of seats in each geographical constituency, and for submitting to the Government recommendations on the delineation of geographical constituencies. In making recommendations for the above purpose, the Commission must have regard to the various criteria specified in the law, including population quota, community identities, existing boundaries of Districts, and so on.

(iv) Electorate Base of the Functional Constituencies

5.22 The Task Force recommends that all the newly added functional constituency seats be returned through election by District Council members from among themselves. Accordingly, close to 60% of the Legislative Council seats, including the seats returned by geographical constituencies through direct elections and some of the seats returned by functional constituencies, would be returned by geographical constituency elections by over three million voters. The representativeness of the Legislative Council would thereby be further enhanced.

(v) Nationality Requirement

5.23 The Task Force notes that different sectors of the community prefer to maintain the status quo. The Task Force also considers that the existing arrangement would enable individuals who are not of Chinese nationality to continue to contribute to Hong Kong. It would also help maintain the image of Hong Kong as an international city. Therefore, the Task Force proposes that the existing arrangement of 12 seats be maintained.

Other issues

(i) Timetable for Universal Suffrage

5.24 During the consultation period, the Task Force continued to receive submissions proposing the election of the Chief Executive by universal suffrage in 2007 and the election of all the Members of the Legislative Council by universal suffrage in 2008. The Decision of the NPCSC of 26 April 2004 has clearly stipulated that the election of the third term Chief Executive in 2007 shall not be by means of universal suffrage; that the election of the fourth term Legislative Council in 2008 shall not be by means of an election of all the Members by universal suffrage; and that the ratio between Members returned by functional constituencies and members returned by geographical constituencies through direct elections, who shall respectively occupy half the seats, is to remain unchanged.

Therefore, the Task Force would not further process these views. Nevertheless, the Task Force has included these views, together with all other written submissions received, in the Appendices to this report.

- 5.25 At present, our priority is to deal with the electoral arrangements for 2007/2008, so that Hong Kong's electoral system could be taken forward. Indeed, if different sectors of the community could work together to implement the package of proposals relating to the electoral arrangements for 2007/2008, this would be an important step towards the ultimate aim of universal suffrage.
- 5.26 On the issue of setting a timetable for introducing universal suffrage, the Task Force notes that there are still divergent views within the community. There are views that universal suffrage for both the Chief Executive and the Legislative Council should be introduced in 2012. There are also views that it should be introduced in 2017 or even later. On the other hand, there are still voices in the community calling for the Central Authorities to reconsider introducing universal suffrage in 2007/2008. Further, there are views that there is no need to set any timetable. It is clear that views on the issue remain diverse in the community, and that it would be difficult to reach a consensus in the near future.

- 5.27 According to the Basic Law, for constitutional development to move forward, it is necessary to secure the respective agreement of the Legislative Council, the Chief Executive, and the NPCSC. For any proposal to be taken forward, it must be dealt with in accordance with the principles and procedures stipulated in Basic Law.
- 5.28 We believe that different sectors of the community must continue to work together to help create favourable conditions for attaining universal suffrage. These include grooming political talents, and promoting the long-term stability and prosperity of Hong Kong.
- 5.29 The Decision of the NPCSC has also reiterated that “developing democracy in the Hong Kong Special Administrative Region in the light of the actual situation and in a gradual and orderly manner according to the provisions of the Hong Kong Basic Law has all along been the resolute and firm stance of the Central Authorities. With the development and progress in all aspects of the Hong Kong society and through the joint endeavours of the Government of the Hong Kong Special Administrative Region and Hong Kong residents, the democratic system of the Hong Kong Special Administrative Region will certainly be able to progress forward incessantly, and ultimately attain the aims of selecting the Chief Executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures and electing all the members of the

Legislative Council by universal suffrage provided for in the Basic Law.”

5.30 The Task Force believes that the proposed package put forth in this Report will help taking forward Hong Kong’s constitutional development towards the ultimate aim of universal suffrage.

(ii) Future of Functional Constituencies

5.31 In its Fourth Report, the Task Force suggested that the future of functional constituencies should be examined in detail. We have received relevant views on this issue during the consultation period, including suggestions for setting up a “bicameral system” in the legislature. The Task Force considers that the future of functional constituencies is an important issue that deserves further discussion by the community.

(iii) Replacing Corporate Voting by Individual Voting

5.32 The Task Force notes that there are quite a number of views that corporate voting should be replaced by individual voting. At the same time, the Task Force notes that there are not many concrete proposals on how to implement this proposal. Among these, there are views that voting rights should be given to responsible persons of companies or corporate bodies. There are also views that they should be given to employees or

trade practitioners. The Task Force is of the view that, if all employees of functional constituencies were included in the electorate, most of the functional constituencies would become, in practice, “employee constituencies”. This would not be consistent with the original intention of setting up functional constituencies.

- 5.33 The Task Force considers that we should continue to study the pros and cons of the issue, and does not propose changing the existing arrangements at this stage.

Chapter Six : Legal Issues Arising from the Term of Office of the Chief Executive

6.01 Paragraph 2 of Article 53 of the Basic Law provides that:

“In the event that the office of the Chief Executive becomes vacant, a new Chief Executive shall be selected within six months in accordance with the provisions of Article 45 of this Law”.

6.02 A new Chief Executive selected in accordance with paragraph 2 of Article 53 of the Basic Law shall serve the remainder term of the preceding Chief Executive ^{Note⁶}. The Chief Executive Election (Amendment) (Term of Office of the Chief Executive) Ordinance was enacted by the Legislative Council on 25 May 2005 to provide for corresponding provisions in local legislation.

6.03 During the scrutiny of the amendment Bill by the Legislative Council, the SAR Government undertook to study the following issues:

(i) the number of consecutive terms a new Chief Executive elected in a situation under paragraph 2 of Article 53 of the Basic Law (BL53(2)) may serve;

^{Note⁶} Interpretation of Paragraph 2 of Article 53 of the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China by the NPCSC.

- (ii) whether a new Chief Executive elected in a BL53(2) situation may, pursuant to paragraph 2 of Article 50 of the Basic Law, dissolve the Legislative Council once during the remainder term if the preceding Chief Executive has already dissolved the Legislative Council once during his term of office; and
- (iii) whether it is necessary to elect a new Chief Executive in accordance with BL 53(2) if the vacancy arises within a few months before the expiry of the term of office of the preceding Chief Executive.

6.04 The SAR Government has thoroughly examined these issues and has exchanged views with the relevant departments of the Central Authorities. The views of the SAR Government on the issues are set out below.

- (a) The legislative intent of Article 46 of the Basic Law is that the Chief Executive may only serve for not more than two consecutive terms and may not serve for more than 10 years. A new CE elected under a BL 53(2) situation may only serve for one further term after the expiry of the remainder term, and the remainder term is counted as “a term”.

- (b) A new Chief Executive elected in a BL53(2) situation has the power to dissolve the Legislative Council once during his term of office, i.e. during the remainder term, whether or not the outgoing Chief Executive has already exercised such power during his term of office. This is to uphold the integrity of the powers vested in the new Chief Executive under the Basic Law.
- (c) It is not inconsistent with BL 53(2) not to hold a by-election if a vacancy arises within six months before the expiry of the term of the Chief Executive. Furthermore, we recommend that the Chief Executive Election Ordinance be amended to provide for the following arrangements from 2007:
- (i) if an election for a new term (5-year) Chief Executive will be held within six months after a vacancy in the office of the Chief Executive has arisen, it will not be necessary to hold a by-election; and
 - (ii) before the new term (5-year) Chief Executive takes up his office, the Acting Chief Executive will continue to assume the duties of the Chief Executive.

Detailed considerations are set out in Annex A.

Chapter Seven : Way Forward and Legislative Timetable

- 7.01 The Constitutional Development Task Force has set out in this Report a proposed package in respect of the methods for selecting the Chief Executive in 2007 and for forming the Legislative Council in 2008. The Task Force has also commissioned the Central Policy Unit to conduct an independent opinion poll to assess the level of public support for the various major elements in the package. The relevant results are set out in Appendix IV. We believe that the proposed package has had regard to the principles outlined in paragraph 5.02, and has struck a balance amidst the various views submitted by different sectors of the community.
- 7.02 To facilitate further discussion by the community, the Task Force has set out in Annex B and Annex C respectively the draft motions to be put by the HKSAR Government to the Legislative Council concerning the amendment to the method for the selection of the Chief Executive and the amendment to the method for the formation of the Legislative Council. The Amendments appended to the motions are the “bills” referred to in the Interpretation of the NPCSC on 6 April 2004. The Amendments will be submitted to the Legislative Council by way of motions. The Amendments shall have effect only after they have had the endorsement of a two-thirds majority of all the Members of the Legislative Council and the consent of the

Chief Executive, and after they have been reported to the NPCSC for approval or record. This arrangement is consistent with the relevant procedures prescribed in the NPCSC Interpretation.

- 7.03 The plan of the Task Force is that, not later than December 2005, it will formally present to the Legislative Council the motions on the Amendments and strive to obtain the Council's endorsement. After the relevant proposals have received the endorsement of the Legislative Council, and the consent of the Chief Executive, and after they have been reported to the NPCSC for approval or for the record, we envisage introducing the Chief Executive Election (Amendment) Bill into the Legislative Council in January 2006 to prescribe, under local legislation, the detailed arrangements regarding the method for selecting the Chief Executive. We will strive to have the Bill passed by the Legislative Council by early May 2006 at the latest, so that relevant subsidiary legislation could be amended respectively by the Executive Council and the Electoral Affairs Commission thereafter, and for the relevant work to be completed by mid-July 2006.
- 7.04 We plan to form a new term Election Committee in the second half of 2006, to elect a new term Chief Executive in March 2007, and to amend the Legislative Council Ordinance in 2007.
- 7.05 The detailed legislative timetable is at Annex D.

- 7.06 As can be seen from above, the legislative work has to be undertaken back-to-back within a tight timeframe. The Task Force very much hopes that Legislative Council Members and members of the community will support the proposed package, and will, in the overall interests of Hong Kong and in the spirit of broadening consensus and narrowing differences, work harmoniously to take forward jointly the legislature work, so that Hong Kong's constitutional development can progress.
- 7.07 Our priority task now is to strive to gain the support of the Legislative Council on the proposed package and the motions on the Amendments. If members of the community have any feedback on the proposed package and the draft motions on the Amendments, these may be put to the Task Force by mail, facsimile or e-mail on or before 30 November 2005:

Address : Secretariat, Constitutional Development
Task Force
Constitutional Affairs Bureau
3/F., Main Wing
Central Government Offices
Lower Albert Road
Hong Kong

Fax number : 2523-3207

Website address : www.cab-review.gov.hk

E-mail address : views@cab-review.gov.hk

Annex A

Legal Issues Arising from The Term of Office of the Chief Executive

The SAR Government has examined the following issues:

- (a) the number of consecutive terms a new Chief Executive selected in a situation under paragraph 2 of Article 53 of the Basic Law (BL53(2)) may serve;
- (b) whether a new Chief Executive elected in a BL53(2) situation may, pursuant to paragraph 2 of Article 50 of the Basic Law, dissolve the Legislative Council once during the remainder term if the preceding Chief Executive has already dissolved the Legislative Council once during his term of office; and
- (c) whether it is necessary to elect a new Chief Executive under BL 53(2) if the vacancy arises within a few months before the expiry of the term of office of the preceding Chief Executive.

2. For the reasons set out in the following paragraphs, the SAR Government takes the following view.

- (a) The legislative intent of Article 46 of the Basic Law is that the Chief Executive may only serve for not more than two consecutive terms and may not serve for more than 10 years. A new CE elected under a BL 53(2) situation may only serve for one further term after the expiry of the remainder term, and the remainder term is counted as “a term”.
- (b) A new Chief Executive elected in a BL53(2) situation has the power to dissolve the Legislative Council once during his term of office, i.e. during the remainder term, whether or not the outgoing Chief Executive has already exercised such power during his term of office. This is to uphold the integrity of the powers vested in the new Chief Executive under the Basic Law.
- (c) It is not inconsistent with BL 53(2) not to hold a by-election if a vacancy arises within six months before the expiry of the term of the Chief Executive. Furthermore, we recommend that the Chief Executive Election Ordinance be amended to provide for the following arrangements from 2007:

- (i) if an election for a new term (5-year) Chief Executive will be held within six months after a vacancy in the office of the Chief Executive has arisen, it will not be necessary to hold a by-election; and
- (ii) before the new term (5-year) Chief Executive takes up his office, the Acting Chief Executive will continue to assume the duties of the Chief Executive.

(a) Number of Consecutive Terms

3. Article 46 of the Basic Law provides that “[t]he term of office of the Chief Executive of the HKSAR shall be five years. He or she may serve for not more than two consecutive terms”. The question which arises is whether the term of office of a new Chief Executive elected in a BL53(2) situation (which is the remainder of the term of the preceding Chief Executive) constitutes a “term” for the purposes of Article 46 of the Basic Law. If the answer is positive, a new Chief Executive may serve at most two consecutive terms including the remainder term i.e. the full duration of the office will be less than ten years. If the remainder term is not regarded as a term under Article 46 of the Basic Law, then the term of office of the new Chief Executive may be more than ten years in total.

4. The purpose of restricting the number of terms that a Chief Executive may serve to two consecutive terms (i.e. not more than 10

years) is to avoid the drawbacks which may result from the incumbent Chief Executive serving too many terms. If the remainder term served by a new Chief Executive is not counted as a term for the purpose of Article 46 of the Basic Law, a new Chief Executive may be in office for more than fourteen years in a most extreme scenario (a remainder term of more than four years coupled with two five-year terms in succession). Such a long term of office could not have been intended by the Basic Law which has clearly restricted the number of consecutive years that a Chief Executive may be in office to ten.

5. Thus, we consider that a new Chief Executive returned in a by-election may only serve for one more term after expiry of the remainder term, and the remaining term is counted as “a term”.

(b) **Dissolution of the Legislative Council**

6. Paragraph 2 of Article 50 of the Basic Law provides that “[t]he Chief Executive may dissolve the Legislative Council only once in each term of his or her office”. This power of dissolution vested in the Chief Executive is a concrete measure to implement the *constitutional principle of mutual regulation and coordination*^{Note7}, which governs the

^{Note7} The principle is explained by Director Ji Pengfei in his Explanations on “The Basic Law of the HKSAR of the People’s Republic of China (Draft) and its Related Documents” given at the National People’s Congress on 28 March 1990 shortly before the adoption of the Basic Law on 4 April 1990. Director Ji’s Explanations was accepted by the Court of Final Appeal as relevant extrinsic material that throws light on the context or purpose of the Basic Law and its particular provisions in the case of *Chong Fung Yuen* at 224E-F. Director Ji says,

“The executive authorities and the legislature should regulate each other as well as co-ordinate their activities. To maintain Hong Kong’s stability and administrative efficiency, the Chief Executive must have real power which, at

relationship between the executive authorities (i.e. the HKSAR

the same time, should be subject to some restrictions..... If the Chief Executive considers a bill passed by the Legislative Council to be not compatible with the overall interest of the Region, he or she may return it to the Legislative Council for reconsideration. If the Chief Executive refuses to sign a bill passed the second time by the Legislative Council, or the Legislative Council refuses to pass a budget or any other important bill introduced by the government, and if consensus still cannot be reached after consultations, the Chief Executive may dissolve the Legislative Council.The Basic Law also stipulates that if the bill returned by the Chief Executive is passed again by the Legislative Council with at least a two-thirds majority, the Chief Executive must sign and promulgate it within one month, unless he or she dissolves the Legislative Council. If the newly elected Legislative Council, after the old one has been dissolved, again passes by a two-thirds majority the original bill in dispute, or it still refuses to pass the original budget or any other important bill introduced by the government, the Chief Executive must resign.The provisions mentioned above embody the relationship of regulation and co-ordination between the executive authorities and the legislature.”

The provisions referred to by Director Ji in the above passage are Articles 49, 50 and 52 of the Basic Law. It is clear from these provisions that if a vacancy arises in the situations referred to in Paragraph 2, Article 52 or Paragraph 3, Article 52, the outgoing Chief Executive must have dissolved the Legislative Council once during his term. If the new Chief Executive selected to fill the vacancy in a BL53(2) situation does not have the power to dissolve the Legislative Council because his predecessor has already done so, the new Legislative Council reconstituted under Article 70 of the Basic Law will be free from regulation of the new Chief Executive for ***the whole*** of the remainder term. This is inconsistent with the constitutional principle of mutual regulation and co-ordination envisaged in the Basic Law.

This principle is explained as follows by Wang Shuwen, a former Basic Law Drafting Committee member, in the book he edited – “Introduction to the Basic Law of the HKSAR” (2000) (at pp 380-381)

“It can be seen from the above that mutual restriction between the Chief Executive and the Legislative Council is basically balanced. If the Legislative Council is subject to restriction by the Chief Executive in one aspect, the Chief Executive will correspondingly be subject to restriction by the Legislative Council. Conversely, if the Legislative Council restricts the Chief Executive in one aspect, the Chief Executive will restrict the Legislative Council correspondingly. At the same time, there is not only mutual restriction but also mutual coordination between the Chief Executive and the Legislative Council. And it is coordination within restriction and vice versa. Both of them, in accordance with the provisions of the Basic Law, shoulder the tasks of administration of the HKSAR within their own limits of powers and functions.”

Government headed by the Chief Executive) and the legislature.

7. We consider that, to uphold the integrity of the powers of the Chief Executive, a new Chief Executive elected in a BL53(2) situation has the power to dissolve the Legislative Council once during his term of office, i.e. during the remainder term, whether or not the preceding Chief Executive has already exercised such power during his term of office. The reference to the “term of office” in the provision that “the Chief Executive may dissolve the Legislative Council only once in each term of his or her office” in Paragraph 2 of Article 50 of the Basic Law should be construed to include the remainder term served by a new Chief Executive. Otherwise, the new Chief Executive will be deprived of a tool to regulate the Legislative Council and to realize the principle of “executive-led government”.

(c) **Chief Executive By-election**

8. Paragraph 2 of Article 53 of the Basic Law provides that in the event that the office of the Chief Executive becomes vacant, a new Chief Executive shall be selected within six months in accordance with the provisions of Article 45 of the Basic Law. This provision imposes a constitutional requirement to hold an election to return a new Chief Executive within six months after a vacancy has arisen. According to the NPCSC Interpretation of 27 April 2005, a new Chief Executive selected to fill a vacancy shall serve the remainder of the term of the preceding Chief Executive.

9. Although BL 53(2) provides that an election shall be held to fill any mid-term vacancy which arises in the office of the Chief Executive, this requirement does not apply to a vacancy arising within the last six months of a five-year term. This is because, by the time a new Chief Executive has been elected, the remainder of the term will already have lapsed, and the vacancy to be filled by the election will no longer exist. During the period in question, the duties of the Chief Executive shall be assumed by the relevant officials in accordance with Paragraph 2 of Article 53 of the Basic Law.

10. As to how a situation whereby a vacancy arises more than six months before the expiry of the term should be dealt with, we are of the view that, in considering the issue, the fundamental principle is to ensure that the requirement under Article 53 of the Basic Law, i.e. a new Chief Executive shall be selected within six months after a vacancy arises, is fulfilled. At the same time, we should avoid holding two Chief Executive elections within a short period of time.

11. We propose that the following arrangement be adopted from 2007:

- (a) if an election for a new term (5-year) Chief Executive will be held within six months after a vacancy in the office of the Chief Executive has arisen, it will not be necessary to hold a by-election; and

- (b) before the new term (5-year) Chief Executive takes up his office, the Acting Chief Executive will continue to assume the duties of the Chief Executive.
12. The term of the Election Committee should tie in with the above arrangement. In future, the term of office of the Election Committee will commence on 1 February in a Chief Executive election year (but the election for the Election Committee could be held in December of the preceding year). If a by-election is required because a vacancy arises during the term of the Chief Executive, this should be dealt with by the original Election Committee. The new term (5-year) Chief Executive will be elected by a new term Election Committee.
13. The above proposal can be implemented through local legislation, and does not require amendments to Annex I to the Basic Law. The proposal is also consistent with retaining the arrangement that the Election Committee shall have a term of five years.

**Draft Motion to be Put by the HKSAR Government
to the Legislative Council Concerning the
Amendment to the Method for the Selection of the
Chief Executive**

Pursuant to Article 7 of Annex I to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (that is, 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), the Interpretation by the Standing Committee of the National People's Congress of Article 7 of Annex I and Article III of Annex II to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, and the Decision of the Standing Committee of the National People's Congress on Issues relating to the Methods for Selecting the Chief Executive of the Hong Kong Special Administrative Region in the year 2007 and for Forming the Legislative Council of the Hong Kong Special Administrative Region in the year 2008, the "(Draft) Amendment to Annex I to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China Regarding the Method for the Selection of the Chief Executive of the Hong Kong Special Administrative Region" appended to this Motion is hereby endorsed by this Council by a two-thirds majority of all Members, for submission to the Chief Executive for consent, and thence for reporting

by the Chief Executive to the Standing Committee of the National People's Congress for approval.

Appendix

(Draft) Amendment to Annex I to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China Regarding the Method for the Selection of the Chief Executive of the Hong Kong Special Administrative Region

1. The Election Committee to elect the third term Chief Executive in 2007 shall be composed of 1 600 members from the following sectors:

Industrial, commercial and financial sectors	300
The professions	300
Labour, social services, religious and other sectors	300
Members of the Legislative Council, members of the District Councils, representatives of the Heung Yee Kuk, Hong Kong deputies to the National People's Congress, representatives of Hong Kong members of the National Committee of the Chinese People's Political Consultative Conference	700

The term of office of the Election Committee shall be five years. In the event that the office of the Chief Executive becomes vacant during the term, the term of office of the new Chief Executive elected by the Election Committee shall be the remainder of the term of the preceding Chief Executive. The new Chief Executive may serve for one more term after expiry of the term.

2. Candidates for the office of Chief Executive may be nominated jointly by not less than 200 members of the Election Committee. Each member may nominate only one candidate.

**Draft Motion to be Put by the HKSAR Government
to the Legislative Council Concerning the
Amendment to the Method for the Formation of the
Legislative Council**

Pursuant to Article III of Annex II to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (that is, 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 the record), the Interpretation by the Standing Committee of the National People's Congress of Article 7 of Annex I and Article III of Annex II to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, and the Decision of the Standing Committee of the National People's Congress on Issues relating to the Methods for Selecting the Chief Executive of the Hong Kong Special Administrative Region in the year 2007 and for Forming the Legislative Council of the Hong Kong Special Administrative Region in the year 2008, the "(Draft) Amendment to Annex II to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China Regarding the Method for the Formation of the Legislative Council of the Hong Kong Special Administrative Region and its Voting Procedures" appended to this Motion is hereby endorsed by this Council by a two-thirds majority of all Members, for submission to the Chief Executive for consent, and

thence for reporting by the Chief Executive to the Standing Committee of the National People's Congress for the record.

Appendix

(Draft) Amendment to Annex II to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China Regarding the Method for the Formation of the Legislative Council of the Hong Kong Special Administrative Region and its Voting Procedures

The fourth term Legislative Council in the year 2008 shall be composed of 70 members, and the composition shall be as follows:

Members returned by functional constituencies	35
Members returned by geographical constituencies through direct elections	35

Legislative Timetable

<u>Date/Period</u>	<u>Work Procedure</u>
mid-October 2005	Publication of the Fifth Report to set out the Government's proposed package and the draft motions concerning the amendments to the methods for the selection of the Chief Executive and for the formation of the Legislative Council
mid-October to end November	Consultation with the Legislative Council on the proposed package and the draft motions concerning the amendments to the methods for the selection of the Chief Executive and for the formation of the Legislative Council
Within December	To present to the Legislative Council the motions for endorsement by the Council
	The Chief Executive to give consent to the (Draft) Amendments and to report to the NPCSC

<u>Date/Period</u>	<u>Work Procedure</u>
Late December	The NPCSC to consider and to approve/record the Amendments
January 2006	Introduction of the Chief Executive Election (Amendment) Bill (“the Bill”) into the Legislative Council (First Reading and commencement of Second Reading debate)
January to April	Legislative Council Bills Committee to scrutinize the Bill
May	The Legislative Council to resume Second Reading debate, Third Reading of the Bill
mid-May	The Executive Council and the Electoral Affairs Commission to make relevant subsidiary legislation
mid-May to July	The Legislative Council to vet the subsidiary legislation

<u>Date/Period</u>	<u>Work Procedure</u>
<u>Other Relevant Arrangements</u>	^{Note8}
July to August 2006	Voter registration for the Election Committee subsectors
mid-September	Publication of the provisional registers for the Election Committee subsectors
End October	Publication of the final registers for the Election Committee subsectors
End October to November	Nomination period for Election Committee subsector ordinary elections
December	Polling day for Election Committee subsector ordinary elections

Note 8 After amendments have been made to Annex II to the Basic Law, a Legislative Council (Amendment) Bill to implement the provisions relating to the fourth term Legislative Council Elections in 2008 will be introduced in 2007.