



陳得偉 東區區議會民選議員
Tony Chan District Councillor
Eastern District Council

GPA099

Dear Honorable Chief Secretary,

I attach a letter of the Hong Kong Democratic Foundation response to the 5th Report of the Constitutional Development Task Force.

The government should delete the appointed District Councillors from the Election Committee, set out a timetable for universal suffrage and change the corporate voters to individual voters in the functional constituencies.

I support the positions held by the Hong Kong Democratic Foundation.

Yours sincerely,

(Signed)

Chan Tak Wai
Elected District Councilor since 1991

**HONG KONG DEMOCRATIC FOUNDATION
RESPONSE TO
THE FIFTH REPORT
OF THE
CONSTITUTIONAL DEVELOPMENT TASK FORCE**

Given the sustained majority public support for universal suffrage for the election of the Chief Executive (CE) in 2007 and the election of all members of the Legislative Council (LegCo) by universal suffrage in 2008, we are greatly disappointed at the Task Force's failure to come up with proposals to advance the progress to full democracy more vigorously with options that are still available within the framework of the NPC's April decision.

**ROLE OF THE DISTRICT COUNCILLORS IN THE SELECTION OF THE
CHIEF EXECUTIVE AND THE LEGISLATIVE COUNCIL ELECTIONS**

Since the Task Force has included a role for the District Councilors (DCs) in the selection of the CE in 2007 and an enhanced role in the formation of the Legislative Council in 2008, we would like to make some general observations of principle.

The participation of the appointed DCs in both these roles is unacceptable to us. We believe the inclusion of the appointed DCs in these roles significantly dilutes the enhancement of progress towards universal suffrage that would have resulted if only the elected DCs had been included.

Furthermore, we do not see that there is any obligation on the Government, in terms of preserving fairness, to include the appointed DCs in these new roles. The appointed DCs were included in the District Councils for very specific purposes and there is no logical linkage between their role in these bodies

METHOD OF SELECTING THE CHIEF EXECUTIVE IN 2007

(i) Election Committee

In our response to the 4th Report of the Task Force, we proposed an Election Committee (EC) consisting of 6,800 members of which 3,400 would be directly elected.

Provided the proportion of directly elected members of the EC remains at 50%, the HKDF would support a substantially smaller EC, where the directly elected element comprises:

400 elected DCs	
27 ex-officio Ds	
35 directly elected Legislative Councilors (LCs)	
22 representatives of the Heung Yee Kuk	

This would result in a directly elected element of 484 members. As a result the total size of the EC would be 964 members as follows:

Industrial, commercial and financial sectors	120
The professions	85
Labour, social services, religious and other Sectors	200
Fourth Sector (directly elected)	484
All Hong Kong deputies to the National People's Congress	36
Representatives of Hong Kong Members of the National Committee Of the Chinese People's Political Consultative Committee	43

Regarding the issue of "balanced participation" raised in paragraph 5.10 of the 5th Report of the Task Force, the HKDF has a fundamental difference of opinion to the philosophy stated, which essentially is one of "managed participation" of the community in the electoral process, rather than the commonly accepted concept of "free market democracy".

We would strongly caution that, the continued practice of the Government of ascribing factors other than the purely numeric to its definition of "balanced participation" and thus promoting a bias in favour of certain minority groups, will inevitably lead to instability within the community.

(ii) Nomination Mechanism

The HKDF disagrees with the proposal in paragraph 5.11 and supports the continuation of the present requirement of not less than 100 subscribers for each candidate.

As previously proposed, in our responses to the 3rd and 4th Reports of the Task Force, the HKDF recommends an upper limit of nominees per candidate and in view of the small size of our proposed EC, we would set this at 100 subscribers. Furthermore, we disagree with the position on this set out in paragraph 5.12 that setting an upper limit would unduly restrain EC members from exercising their right to nominate candidates. EC members do not in fact have a right to nominate, they are only qualified to be nominators if invited to do so by a candidate.

(iv) Requirement that the Chief Executive should not have any Political Affiliation

In its response to the 4th Report of the Task Force, the HKDF supported the proposition that it should not be a bar for the CE to have a political affiliation and we still maintain this view, as we believe this could be beneficial for the reasons we have previously stated in our response to the 4th Report of the Task Force, paragraph 5. Furthermore, we would contest the remark in paragraph 5.14 of the 5th Report of the Task Force that the existing requirement has not impeded effective governance with the reminder that there has been a very strongly held view in the community as to the inadequate level of effective governance during much of the period 1997 to 2005.

OTHER ISSUES

In our response to both the 3rd and 4th Reports of the Task Force, we have made various recommendations regarding the composition of the First, Second and Third sectors of the EC and we propose that the principals behind these still be applied to the 968 seat EC proposed in this submission. In this respect paragraphs 1.1.5, and 1.2.2 - 1.2.9 of the HKDF's response to the 3rd Report of the Task Force continue to be relevant

The HKDF also continues to support its recommendations in paragraphs 1.5.1 – 1.5.3 of its response to the 3rd Report of the Task Force regarding election process issues for the selection of the CE.

METHOD OF FORMING THE LEGISLATIVE COUNCIL

(i) Number of Seats

In view of the fact that the Task Force has proposed that an additional 5 Functional Constituency (FC) seats be filled by DCs, on the basis that appointed DCs will not be allowed to either vote for these members or stand for election in their own right, the HKDF withdraws its previous opposition to an increase in the number of LegCo seats and supports the proposal to increase the size of LegCo to 70 seats.

(ii) Number of Seats Returned by Functional Constituencies

With regard to the method of election of the members for the District Council FC, the HKDF proposes this be by the STV proportional representation system.

(v) Nationality Requirement

The HKDF proposes that the ratio of LegCo members who are not of Chinese nationality be retained at 20% and therefore 14 seats should be available for election of members who are not of Chinese nationality. Almost all members returned in previous elections in seats available to members who are not of Chinese nationality have been ethnic Chinese and we believe such members are able to make a useful contribution to the governance of Hong Kong.

OTHER ISSUES

(i) Timetable for Universal Suffrage

The HKDF agrees with the Task Force's statement in paragraph 5.26 that there are divergent views on this issue. However, there is simply no doubt that the continued significant majority view of the community is that at least a Roadmap and preferably with a timetable, for the introduction of universal suffrage both for the election of the CE and all LegCo seats needs to be issued as part of the Task Force's final proposals.

(ii) Future of Functional Constituencies

It is the HKDF's view and we believe the dominant community view that FCs should be abolished at the earliest opportunity, which should now be by no later than the 2012 LegCo elections. While not in agreement with the wishes of supporters of the FC concept that certain sections need to have a continuing channel for participation in the legislative process, the HKDF believes it would be prudent to try to accommodate this. Therefore we would strongly support the exploration of the introduction of a "bicameral" system with a fully directly elected primary chamber and a secondary chamber to accommodate specific sectoral groups.

We would like to take this opportunity to reiterate the issues raised in paragraphs 2.2.1 – 2.2.7 of our response to the 3rd Report of the Task Force, as we believe the recommendations made are integral to redressing anomalies in the present FC system, which are urgently needed.

In Appendix 1 we show our proposed composition of the FCs based on the issues raised in paragraphs 2.2.1 – 2.2.7 of our response to the 3rd Report of the Task Force and taking into consideration the proposal to provide 5 additional FC seats, all of which would be allocated to District Councilors.

(iii) Replacing Corporate Voting by Individual Voting

The HKDF believes there still remains a strong case for the replacement of corporate voting by individual voting in all FCs which currently have corporate voting. While only a few proposals have been made as to how this might be accomplished, as stated in paragraph 5.32, the HKDF considers the proposals on this it has made previously in paragraph of its response to the 3rd Report of the Task Force is both practical and sustainable and should be adopted for the 2008 LegCo election.

VOTING, VOTING SYSTEMS & POLITICAL PARTIES

The HKDF have made numerous recommendations on the above issues in its response to the 3rd Report of the Task Force, reference paragraphs 2.5.1 – 2.7.2 and believes that those in paragraphs 2.5.1 – 2.6.5 are worthy of incorporation in the arrangements for the 2008 LegCo elections and that the recommendations regarding Political parties in paragraphs 2.71. – 2.7.3 also merit action.

CONCLUSION

The HKDF considers that the proposals set out in the 5th Report of the Task Force, while on the surface appear to be an advance towards the objective of universal suffrage and a fair and open electoral system, in reality are only a marginal improvement over the current situation, based on the reasons presented above.

In view of this it is the HKDF's contention that these proposals do not merit support in their present form and unless there are substantive improvements made, there is little point in changing from the status quo. Moreover, to support the Task Force's 5th Report proposals would be to endorse a "snail's pace" approach to the transition to universal suffrage, which would not be acceptable to the majority of the community.

APPENDIX I

PROPOSED FUNCTIONAL CONSTITUENCIES FOR 2008 LEGISLATIVE COUNCIL ELECTIONS

Production Enterprises FC	3 seats
Agriculture & Fisheries	
Industrial (First)	
Industrial (Second)	
Publications (from the present Sports, Performing Arts, Culture and Publication FC)	
Real Estate & Construction	
Textiles & Garments	
Commercial	4 seats
Commercial (First)	
Commercial (Second)	
Import & Export	
Wholesale & Retail	
Technology	3 seats
Architectural, Surveying & Planning	
Engineering	
Information Technology	
Transport	
Financial	3 seats
Finance	
Financial Services	
Insurance	
Services	2 seats
Catering	
Tourism	
Professions	3 seats
Accounting	
Legal	
Medical	

Social	3 seats
Health Services	
Social Welfare	
Sports, Performing Arts & Culture	
Labour	5 seats
Education	2 seats
Heung Yee Kuk	1 seat
District Councils	6 seats