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策略發展委員會  
管治及政治發展委員會  
立法會普選的可能模式

引言

委員於本年五月的會議上，已就有關普選原則和概念的討論作總結(文件 CSD/GC/6A/2006)。根據有關總結，在討論行政長官及立法會普選的可能模式時，提出的方案須能符合：

- (一) 國家對香港的基本方針政策；
- (二) 政制發展的四項原則，包括：兼顧社會各階層利益、有利於資本主義經濟的發展、循序漸進及適合香港實際情況；
- (三) 行政主導的原則；及
- (四) “普及”和“平等”選舉的原則。

2. 委員在以往的會議上，曾初步探討有關達致最終普選時立法會產生辦法的可能模式。有關討論的撮要見文件 CSD/GC/6A/2006 第 34-41 段。本文件旨在提供背景資料，讓委員進一步探討在符合《基本法》及有關普選原則和概念下，立法會普選的可能模式。

《基本法》的規定

3. 《基本法》第六十八條規定：“香港特別行政區立法會由選舉產生。立法會的產生辦法根據香港特別行政區的實際情況和循序漸進的原則而規定，最終達至全部議員由普選產生的目標”。根據人大常委會 2004 年 4 月的《決定》，第四屆立

法會的功能團體和分區直選產生的議員各佔半數的比例維持不變。

4. 委員同意無論採取何種普選模式，都必須符合《基本法》中有關全部立法會議員最終由普選產生的目標。委員同時認同，要推動香港政制發展，一定要從現實角度出發，讓社會各方面形成共識；而當中一個重要的政治現實，是立法會六十個議席中，有三十席是由功能界別所產生的。由於立法會選舉辦法的任何修改，須得到立法會全體議員三分之二多數通過，即實際上須同時得到功能界別和地區直選產生的議員的認同和支持。

5. 政制發展專責小組(專責小組)就 07/08 兩個選舉辦法進行公眾諮詢時，就立法會普選模式收到一些相關意見。由於全國人大常委會於 2004 年 4 月通過的《決定》規定了 2008 年不實行普選立法會，故此有關立法會普選模式的意見不屬專責小組公眾諮詢工作的範圍。不過，為完整反映收到的公眾意見，專責小組在得到提交意見書的人士/團體同意後，已把有關的意見書一併載列於其報告的附錄內。此外，當局近期收到一些團體提交有關立法會普選模式的意見書。這些公眾人士/團體意見的撮要現載於附件一供委員參考。

6. 根據立法會秘書處於 2006 年 6 月向立法會政制事務委員會提供的文件，立法會曾收到一些有關普選立法會的書面意見。這些意見撮要現載於附件二供委員一併參考。

7. 本委員會秘書處過往數月收到個別委員提供的相關書面意見撮要載於附件三。

#### 立法會最終普選的可能模式

8. 在邁向立法會最終普選的過程中，現有功能界別應如何演變是其中一項重要議題。委員普遍認同有關的重要考慮包括：

- (a) 須顧及香港的特別需要、訴求及歷史現實；及

- (b) 須確保有利兼顧各階層的利益，維持“均衡參與”的原則，及考慮功能界別歷來在這方面所擔當的角色。

9. 在收到的意見書中(見附件一至三)，基本上都認同達至立法會最終普選的目標。至於功能界別應如何演變，及立法會最終普選的模式，相關的意見大致可分為以下幾方面：

- (a) 全部議席由地區直選產生，取消全部功能界別議席。不過，在相關的意見中，就選舉制度、選區劃分及投票制度，則提出了不同的方案，包括：

- (i) 全部議席由地區直選產生，但並無說明具體細節；
- (ii) 將全部議席分為兩組，第一組由單議席單票制產生，全港按人口比例分為 30 區，共 30 席。另一組由比例代表制產生，全港為一個大選區。每名選民有兩票選出立法會議員；及
- (iii) 全港分為 45 個選區，每個選區有兩個議席，每名選民可投兩票給兩位候選人，每區得票最高的兩位候選人即可當選。

- (b) 除由地區直選產生的議席外，亦保留功能界別議席，但功能界別議席不能繼續按照現有的選舉方式產生。有關建議包括：

- (i) 由功能界別成員提名代表，然後讓全港選民投票選出。每名選民將有兩票，一票選地區直選議員，另一票選功能界別成員提名的候選人；及
- (ii) 全部議席從不同途徑由普選產生：三分一議席由分區單議席單票制產生，三分一由三個選區以單一名單制產生，及三分一來自功能界別經普選產生，即每名選民可有三票。

(c) 推行兩院制。

- (i) 有關第一院的組成，在相關的意見中，全部認為應由地區直選議員組成。

至於第二院的組成，在相關的意見中，大部分建議由功能界別產生的議員組成，當中有意見認為可擴大功能界別的選民基礎；也有意見認為第二院的議員可由功能界別提名，一人一票選出。

此外，有意見認為第二院除了包括功能界別的議員外，亦可包括全國人大港區代表、香港政協委員和一些政界人士；有意見認為四分之一議席可分配予區議員，其餘的則分配予各界人士（例如，工商、勞工、教育、文化等）；也有意見認為可由各區民選區議員投票選出第二院的議員。

- (ii) 至於兩院的分權，在相關的意見中，一般認為由功能界別組成的第二院可審議第一院通過了的法案和議案，及在有需要時對有關法案和議案提出修訂或作延遲。亦有意見認為，第二院應可就政制改革、涉及中央特區關係的有關法案、下議院議員私人法案和其他目前需要三分之二議員通過的重要法案，有較廣泛的否決權。

- (iii) 委員在過去的會議上曾初步討論應否實行兩院制。有關討論的撮要見文件 CSD/GC/6A/2006 第 36-38 段。

在達至最終普選前的過渡安排

10. 在收到的意見書中，部分認為在達至立法會最終普選的過程中，可考慮先作過渡安排，而相關的意見大致可分為以下幾方面：

(a) 減少功能界別議席的比例，例如：

- (i) 增加地區直選議席而功能界別議席數目維持不變；
- (ii) 減少功能界別議席數目；
- (iii) 減少功能界別的數目；
- (iv) 取消或合併一些現有界別。

(b) 擴大功能界別的選民基礎，例如：

- (i) 增加「綜合功能議席」界別，讓現時並未納入功能界別的選民登記為功能界別選民；
- (ii) 增加不同功能界別，把現時在立法會沒有代表的界別納入功能界別(如婦女、少數族裔、青年團體、中醫、高等教育、環保、出版)；
- (iii) 取消功能界別的公司/團體票，由有資格被界定為該界別的選民以一人一票產生界別的代表。

(c) 讓功能界別成員提名代表，然後讓全港選民投票。

有意見認為這模式可作為在達至立法會最終普選前的一個過渡安排。不過，正如上文第 9(b)(i)段所述，同時有意見認為這模式也可作為達至最終普選時的模式。

(d) 推行兩院制。

在收到的建議中，有意見認為在達至普選的過程中，可推行兩院制作為過渡安排，以便逐步處理功能界別的問題。不過，正如上文第 9(c)段所述，同時有意見認為這模式也可作為達至最終普選時的模式。

## 總結

11. 政府就上文第 8-10 段所述的議題並未有任何既定立場。我們樂意聽取委員的意見。

政制事務局  
2006 年 9 月

**Commission on Strategic Development**  
**Committee on Governance and Political Development**  
  
**Possible Models for Forming the Legislative Council**  
**by Universal Suffrage**

**Introduction**

At the Committee meeting in May this year, Members concluded discussions on the concepts and principles relating to universal suffrage (Paper CSD/GC/6A/2006). According to the conclusions, in discussing possible models for electing the Chief Executive (“CE”) and the Legislative Council (“LegCo”) by universal suffrage, any proposal put forward should comply with:

- (1) the basic policies of the State regarding Hong Kong;
- (2) the four principles on constitutional development, namely, meeting the interests of different sectors of society, facilitating the development of the capitalist economy, gradual and orderly progress, and being appropriate to the actual situation in Hong Kong;
- (3) the principle of an executive-led system; and
- (4) the principles of universal and equal suffrage.

2. At previous meetings, Members have explored on a preliminary basis possible models for forming the LegCo when the ultimate aim of universal suffrage is attained. A summary of the discussions has been provided in paragraphs 34-41 of Paper CSD/GC/6A/2006. This paper provides background information to facilitate Members’ further discussion of possible models for forming the LegCo by universal suffrage in accordance with the Basic Law and the concepts and principles relating to universal suffrage.

## **Provisions in the Basic Law**

3. Article 68 of the Basic Law provides that “the LegCo of the HKSAR shall be constituted by election. The method for forming the LegCo shall be specified in the light of the actual situation in the HKSAR and in accordance with the principle of gradual and orderly progress. The ultimate aim is the election of all the members of the LegCo by universal suffrage”. In accordance with the Decision made by the Standing Committee of the National People’s Congress (“NPCSC”) of April 2004, in the fourth term of the LegCo, the ratio between members returned by functional constituencies (“FCs”) and members returned by geographical constituencies (“GCs”) through direct elections, who shall respectively occupy half of the seats, is to remain unchanged.

4. Members agree that regardless of which parliamentary model is to be adopted, the ultimate aim of electing all the members of LegCo by universal suffrage, as stipulated in the Basic Law, must be attained. Members also recognize that, to take forward Hong Kong’s constitutional development, we must proceed in a pragmatic manner so as to forge consensus within the community. One important political reality is that 30 out of the 60 LegCo seats are returned by FCs. As any amendment to the electoral method for LegCo shall require the endorsement of a two-thirds majority of all the members of the LegCo, in practice, this means that the endorsement and support of members returned by FCs as well as those returned by GCs through direct elections will be required.

5. When consulting the public on the 2007/08 electoral arrangements, the Constitutional Development Task Force (“the Task Force”) received some views relating to models of a universal suffrage system for electing the LegCo. In accordance with the Decision of the NPCSC of April 2004, universal suffrage would not be implemented for the LegCo election in 2008. Hence, views on models for forming the LegCo by universal suffrage did not fall within the scope of public consultation undertaken by the Task Force. However, to fully reflect the public views received, the Task Force had, with the consent of the concerned individuals/organizations, included the relevant submissions in the appendices to the Reports. Moreover, the Administration has recently received submissions from some organizations relating to possible models for forming the LegCo by universal suffrage. All these views are summarized at Annex I for Members’ reference.



6. According to a paper provided by the LegCo Secretariat to the LegCo Panel on Constitutional Affairs in June 2006, the LegCo had received some written submissions relating to forming the LegCo by universal suffrage. These views are summarized at Annex II for Members' reference.

7. Relevant written submissions from individual Members received by the Committee Secretariat in the past few months are summarized at Annex III.

### **Possible models for forming the LegCo by universal suffrage**

8. In moving towards the ultimate aim of forming the LegCo by universal suffrage, the future of the FCs is one of the key issues to be considered. Members generally agree that the major considerations include the following:

- (a) we must have regard to the special needs, aspirations and historical background of Hong Kong; and
- (b) we must ensure that the interests of different sectors are taken into consideration, and that the principle of "balanced participation" is upheld. In this regard, the role which the FCs have been playing should be considered.

9. In the submissions received (Annexes I to III), the ultimate aim of forming the LegCo by universal suffrage is generally agreed. As to how the FCs should evolve and what models should be adopted for forming the LegCo when the ultimate aim of universal suffrage is attained, the views received can be broadly divided into the following categories:

- (a) **To return all seats by GCs through direct elections; to abolish all FC seats.** However, the relevant submissions have put forth different proposals on the electoral system, the delineation of the constituencies, and the voting system, including:
  - (i) to return all LegCo seats by GCs through direct elections (but with no specific details);

- (ii) to divide all LegCo seats into two groups. The first group (with 30 seats) will be returned by a “single seat single vote” system. The whole of Hong Kong will be divided into 30 constituencies based on population ratio. Another group of seats will be returned by a proportional representation system. The whole of Hong Kong will form a single constituency. Each voter will have two votes for electing LegCo Members; and
  - (iii) to divide Hong Kong into 45 GCs, with two seats in each GC. Every voter can cast two votes for two candidates. The two candidates receiving the highest number of votes in a constituency will be elected.
- (b) **To return seats by GCs through direct elections, and to preserve FCs seats. However, the FC seats would not be returned by the existing election method.** Relevant proposals include:
- (i) to allow members of the FCs to nominate candidates for election by universal suffrage. Each voter will have two votes, one for a candidate to be returned by GCs through direct elections, and one for a candidate nominated by members of the FCs; and
  - (ii) to return the LegCo seats through different ways: one-third to be returned under the “single seat single vote” system on a GC basis; another one-third to be returned under “a single list voting system” on the basis of three GCs, and the remaining one-third to be returned by FCs through election by universal suffrage. This means that each voter will have three votes.
- (c) **To implement a bicameral system**
- (i) Regarding the composition of the first chamber, all the relevant submissions consider that it should be constituted by directly elected members through the GCs.

As for the second chamber, most of the relevant submissions propose that it should be constituted by members returned by the FCs. Among these submissions, there are views that the electorate base for the FCs could be expanded. There are also views that members of the second chamber can be nominated by the FCs for election by “one person one vote”.

Moreover, there are views that apart from members returned by the FCs, the second chamber may also include Hong Kong deputies to the National People’s Congress, Hong Kong members of the Chinese People’s Political Consultative Conference, and some members from the political sector. There are views that one-quarter of the seats could be allocated to District Councils members and the rest to members from different sectors (e.g. industrial and commercial, labour, education and culture). There are also views that members of second chamber can be returned by the elected District Councils members.

- (ii) As for the division of power between the two chambers, the relevant submissions generally consider that the second chamber, which is constituted by members returned by the FCs, should be empowered to scrutinise bills and motions passed by the first chamber, and to propose amendments to or postpone passage of the concerned bills and motions when necessary. There are also views that the second chamber can be given wider veto power over bills relating to constitutional reform, the relationship between the Central Authorities and the SAR, private bills proposed by members of the first chamber, and important bills which currently require the endorsement of a two-thirds majority in the LegCo.
- (iii) At previous Committee meetings, members discussed preliminarily whether a bicameral system should be implemented. The discussions were summarised in paragraphs 36-38 in Paper CSD/GC/6A/2006.

**Transitional arrangements before attaining the ultimate aim of universal suffrage**

10. Among the submissions received, some have suggested that, in the process of attaining the ultimate aim of forming the LegCo by universal suffrage, consideration could be given to putting in place some transitional arrangements. The relevant views can be broadly divided into the following categories:

- (a) **To reduce the proportion of FC seats, for example:**
  - (i) to increase the number of seats returned by GCs through direct elections while keeping the number of seats returned by FC unchanged;
  - (ii) to reduce the number of seats returned by FCs;
  - (iii) to reduce the number of FCs;
  - (iv) to abolish or merge some of the existing FCs.
- (b) **To expand the electorate base of the FCs, for example:**
  - (i) to add a “general FC” under which all GC voters who are currently not included in the FCs can be registered as voters;
  - (ii) to add new FCs to include sectors which are currently not represented in LegCo (e.g. women, ethnic minorities, youth groups, Chinese medicine, higher education, environmental protection, and the publishing sectors);
  - (iii) to abolish corporate votes for FCs. FC members to be returned through “one person, one vote” by eligible voters of the relevant FCs.
- (c) **To allow members of the FCs to nominate candidates for election by universal suffrage**

There are views that this could be a transitional arrangement leading to the attainment of the ultimate aim of forming the LegCo by universal suffrage. However, as stated in paragraph 9(b)(i) above, there are also views that this could be a model when the ultimate aim of universal suffrage is attained.

**(d) To implement a bicameral system**

Among the submissions received, some consider that in the process of attaining universal suffrage, a bicameral system could be adopted as a transitional arrangement so that the issue of FCs could be dealt with in a gradual manner. However, as stated in paragraph 9(c) above, there are also views that this could be a model when the ultimate aim of universal suffrage is attained.

**Conclusion**

11. The Government does not have any established position on the issues set out in paragraphs 8-10 above, and is prepared to listen to Members' views.

Constitutional Affairs Bureau  
September 2006