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策略發展委員會  
管治及政治發展委員會

就行政長官普選可能模式的  
進一步討論

引言

委員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：

- (a) 國家對香港的基本方針政策；
- (b) 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；
- (c) 行政主導的原則；及
- (d) “普及”和“平等”選舉的原則。

2. 委員於本年七月的會議及九月和十月舉行的兩次工作坊中，詳細討論了在符合《基本法》及有關普選原則和概念下，行政長官普選的可能模式。本文件旨在歸納委員的意見，讓委員就有關議題作進一步探討。

3. 為方便委員參考，我們更新了不同團體和人士向當局及立法會提供有關行政長官普選模式的意見撮要，分別載於附件一及附件二。本委員會秘書處過往及最近收到個別委員提供的相關書面意見撮要，則載於附件三。

## 《基本法》的規定

4. 《基本法》第四十五條規定：“香港特別行政區行政長官在當地通過選舉或協商產生，由中央人民政府任命。行政長官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，最終達致由一個具廣泛代表性的提名委員會按民主程序提名後普選產生的目標。”按此規定，當行政長官產生辦法實行普選方式時，行政長官的產生及任命涉及三個步驟：

- (a) 由有廣泛代表性的提名委員會按民主程序提名；
- (b) 提名後，候選人以普選方式產生；及
- (c) 由中央人民政府作出任命。

5. 根據《基本法》第四十五條規定，提名委員會的組成須具廣泛代表性，而提名須按民主程序。不過，《基本法》並未就提名委員會的具體組成，及如何按民主程序提名作出規定。

## 重點討論議題

6. 委員在過往會議及工作坊中，討論了以下三項有關行政長官普選可能模式的重點議題：

- (a) 提名委員會的組成及人數；
- (b) 提名方式；及
- (c) 提名後，如何以普選方式產生行政長官。

## 提名委員會的組成

7. 委員認同按照《基本法》第四十五條，行政長官的普選模式，必須是由提名委員會提名行政長官候選人，然後由市民以普選方式產生行政長官。任何沒有建議由提名委員會提名候選人，或單由普選產生行政長官的方案（即不設立提名委員

會)，都不符合《基本法》的規定。

8. 在考慮提名委員會的組成時，委員普遍認同除了須研究如何確保符合《基本法》訂明“有廣泛代表性”的規定，亦須考慮“兼顧社會各階層的利益”及“有利於資本主義經濟的發展”等原則。在這個前提下，委員討論了不同方案。

(i) 以選舉委員會組成作為提名委員會的組成的藍本

9. 較多委員建議以選舉委員會的組成作為提名委員會組成的藍本，主要原因包括：

(a) 《基本法》第四十五條及附件一分別規定提名委員會及選舉委員會同樣須具“廣泛代表性”。若以選舉委員會的組成作基礎，可能引起的爭議應該較少，有助社會就提名委員會的組成達成共識；

(b) 選舉委員會的組成符合“兼顧社會各階層的利益”及“有利資本主義經濟的發展”等原則。參照選舉委員會的組成能確保提名委員會符合這些原則；及

(c) 選舉委員會以四個界別為綱的組成值得參考，而且以選舉委員會作基礎，對確保提名委員會運作暢順較有把握。

10. 有委員提出，若提名委員會的組成參照選舉委員會，有關組成須較選舉委員會開放，擴大提名委員會的選民基礎（例如，以個人票取代公司/團體票、重組現有界別，或擴大選民基礎至全港合資格選民）。不過，有委員不贊成取消公司/團體票，認為在各行各業中，僱員的人數比僱主為多，若取消公司/團體票，商界參與的機會便會大大減低，違反了社會各界“均衡參與”的原則。

11. 有委員表示對提名委員會的組成參照選舉委員會的建議有保留，認為選舉委員會的組成方式並不符合普及而平等的原則，而選民的提名權亦不平等。

(ii) 由 60 名立法會議員組成提名委員會

12. 有委員提出由 60 名立法會議員組成提名委員會，認為立法會議員的選民基礎最廣及最具代表性。

13. 不過，不少委員對有關建議有保留，原因包括：

- (a) 《基本法》已清楚訂明立法會的職能，當中並無賦予立法會議員提名行政長官的權力。由立法會提名行政長官不符《基本法》的設計；
- (b) 根據《基本法》，行政機關與立法機關之間的關係是互相制衡；由立法會提名行政長官，並不符合《基本法》立法原意，超越了立法會的職權範圍；
- (c) 在起草《基本法》時已排除了以立法會提名行政長官這方案，因為這並不符合“行政主導”的原則；及
- (d) 市民投票選立法會議員時，並無授權他們代為提名行政長官。

(iii) 其他模式

14. 委員注意到，有一些建議毋須設立提名委員會(例如，候選人先由一定數目的登記選民提名，然後由市民一人一票選出行政長官)的方案。委員普遍認為，這些方案與《基本法》第四十五條有關由“一個具廣泛代表性的提名委員會按民主程序提名後普選產生”的規定不符。

提名委員會的人數

15. 不少委員認為提名委員會人數不應太多，因為設立提名委員會的原意是用以代表社會各界別；若人數太多，與設立提名委員會的原意不符。亦有委員提出，由於提名委員會的作用是提名行政長官候選人，而非選舉行政長官，因此人數不用

太多。

16. 有關具體人數，委員提出了下列意見：

- (a) 部分委員建議參照選舉委員會的人數，即 800 人，原因包括：
  - (i) 800 人的選舉委員會具廣泛代表性，符合均衡參與的原則；及
  - (ii) 提名委員會人數太多會令委員會運作有困難。
- (b) 部分委員建議提名委員會組成可參照選舉委員會，但應把人數增至 1 200 人、1500 人或 1 600 人，讓不同階層和界別的人士能更廣泛參與提名委員會，增強提名委員會的代表性。

就如何分配新增的席位，委員提出了不同建議：

- (i) 把新增的議席給予現時未被納入選舉委員會的界別；
- (ii) 把新增的席位分配給區議員；不過，有委員不贊同這建議；
- (iii) 全體港區全國政協委員及港區全國人大代表成為當然委員，以體現“一國”在香港憲制上的地位；
- (iv) 增設“特區建制”界別，包括行政長官、行政會議和立法會全部成員，及所有常設諮詢組織的主席，以體現特區建制的政治地位；及
- (v) 適當地增加商界委員人數，例如把工商、金融界由目前選舉委員會中的 25% 增至 35%，以反映商界對香港的貢獻。不過，有

委員則認為目前選舉委員會的組成，已側重工商和專業階層。

17. 有委員建議，提名委員會應由 60 名立法會議員組成，不過不少委員對此有保留(見上文第 13 段)。亦有委員建議把提名委員會擴大至 3200 人，但有委員不贊同這建議，認為《基本法》第四十五條訂明“行政長官在當地通過選舉或協商產生”，若提名委員會人數太多，根本無從進行協商。有委員則認為行政長官應通過選舉產生，而非協商。

### 提名方式

18. 有關提名委員會提名行政長官候選人的方式，當中一個重要議題，是候選人須取得的委員提名數目。在決定提名門檻的水平時，委員普遍認同應考慮以下因素：

- (a) 須符合《基本法》訂明“按民主程序提名”的規定；
- (b) 須確保候選人有廣泛支持和足夠認受性；及
- (c) 能讓有志之士有機會被提名。

19. 目前，《基本法》附件一規定不少於 100 名選舉委員會委員可聯合提名行政長官候選人(即 12.5%)。每名委員只可提名一名候選人。

### 候選人所需提名數目

20. 不少委員認為，實行普選初期，提名門檻不宜太低，而候選人數目亦不宜過多，主要原因是：

- (a) 提名門檻不宜過低，以免引致過多候選人參與選舉，造成候選人質素參差的情況；
- (b) 假如提名門檻設得低，雖然可能較符合民主的原則，但未必會被中央及社會一些界別所接受，

以致不能就此課題達成共識，拖慢普選的進程；及

- (c) 即使設下較高的提名門檻，候選人也須面向市民，因為他們須經過普選的過程，要爭取市民選票。

21. 另一方面，有委員認為目前 12.5% 的提名門檻已不算低，不應再提高，以免打擊有志之士參選的意欲。亦有委員認為若提名門檻過高，只有少數候選人能參選，令市民沒有選擇，有違民主制度的原則。

22. 有委員提出可先訂出行政長官候選人的數目，然後可透過提名門檻和機制來達至所訂的候選人數目。就此，較多委員建議把候選人數目限於 4 或 8 名，亦有個別委員提出把數目限於 2、3、10 或 12 名。

23. 就候選人所需的提名數目方面，較多委員建議把提名門檻維持於 12.5% 或提高至 25%。其他意見包括把提名門檻訂於 3%、5%、10%、20% 及 30%。亦有委員建議透過提名機制把候選人數目定於某一水平，例如：

- (a) 參選人須經過預選，每名提名委員會委員可選 2 或 4 位參選人，得票最高的 2 或 4 位可成為候選人；及
- (b) 以參選人獲得提名委員會委員的提名數目多寡決定優先次序，首 10 位可成為候選人。

24. 有委員建議有意參選者只須在由立法會組成的提名委員會中，取得五名立法會議員提名便可成為候選人。他認為這方案不是“立法主導”，因為行政長官候選人只需取得五名，而非全部議員的提名。再者，候選人要取得足夠提名並不困難，令獲選的行政長官毋須只顧及單一政黨的利益。不過，有委員認為按這方案，不難產生 12 名候選人，數目太多。

25. 亦有委員建議具一定代表性的政黨或政團，或 5 萬或

10 萬名登記選民，可向提名委員會推薦一名參選者。被推薦的人士必須獲得提名委員會確認才能正式成為候選人。有關的確認應屬實質性，即提名委員會可確認或不確認被推薦的人士。不過，部分委員認為這建議並不符合《基本法》由提名委員會提名行政長官的規定。亦有委員認為由政黨提名並不公平，也不符合民主開放原則。此外，就算候選人獲大批選民提名，亦不代表這些選民有廣泛代表性，而是可能只代表某一群體的利益。

### 其他提名規定

26. 假設提名委員會的組成是參照選舉委員會的四個界別，部分委員提出應考慮規定候選人須在每個界別都取得一定數目的提名，以確保候選人在不同界別和階層都有一定支持，及符合兼顧社會各階層利益的原則。就候選人須在每個界別取得的提名數目，委員提出了不同意見，包括 5%、10%、12.5%、20%、25%或 50%。不過，有委員不贊同這建議，認為門檻太高，變相等於提名委員會委員有否決權，而非由市民透過選舉作決定。

27. 有委員提出，中央在特區政制發展上擁有最終決定權力，因此，在研究行政長官提名方式時，應考慮如何確保選出的行政長官是中央及香港市民可接受的。就此，有委員提出了不同建議：

- (a) 候選人須取得一定數目的立法會議員及港區人大代表提名，方可參選。這可反映立法會議員及港區人大代表在憲制上的角色、確保候選人有足夠認受性，以及為中央和特區均能接受候選人；
- (b) 在進行行政長官普選前，先由中央對候選人進行資格認定。在這安排下，由普選產生的行政長官，應可順利被中央任命；



(c) 提名委員會委員可否決認為不符合具治港能力和愛國條件的參選者資格；凡遭半數委員或以上否決的參選者將不能成為候選人；及

(d) 候選人資料應先提交中央政府備案，再由市民一人一票選出。

28. 不過，有委員認為提名機制應作出最少限制，反對以人大代表或立法會議員作把關。亦有委員認為現時全國人大港區代表已經是選舉委員會的當然委員，有一定影響力，毋須再給予他們否決權。若提名委員會參照現時選舉委員會的制度，只須將門檻提升，應已可確保候選人是中央可接受的。

29. 部份委員建議設立提名上限(例如 50%)，讓更多有意參選的人士有機會獲得提名。不過，有委員則持相反意見。

30. 此外，較多委員認為每名提名委員會委員應只限提名一位候選人；但亦有委員建議容許每名委員提名多於一位候選人，讓更多有意角逐的人士可以參選。

### 提名後的普選方式

31. 委員認同候選人獲提名後，應由全港市民以一人一票方式選出行政長官。

32. 至於具體細節，有委員認為，應只舉行一輪選舉，以“得票最多者當選”的方式選出行政長官，這可以避免浪費資源。但有委員認為若行政長官只是低票當選，會影響其認受性，故此建議候選人須取得超過半數有效票方可當選，並在有需要時舉行多於一輪投票。亦有委員提出，在候選人須取得過半數支持方可當選的前提下，一個較簡單的做法是規限只有兩名候選人可參與普選，獲選的候選人必然是取得過半數有效票。

33. 此外，有委員提出，在只有一名候選人的情況下，仍須進行投票，候選人須取得過半數支持票方能當選。

## 其他相關議題

34. 委員在考慮行政長官普選可能模式的具體安排時，帶出了一個重要議題，就是：應否先訂出門檻相對較高的普選方案，確保候選人是中央和特區所接受的，以爭取中央和特區社會各界支持方案。在推行普選之後，選舉制度可逐步演變下去。

35. 就這個議題，委員提出了不同意見，包括：

- (a) 要與中央就普選模式達成共識，必須能說服中央，普選不會令國家的主權和行政主導的原則受到挑戰；
- (b) 基於香港社會普遍接受中央在行政長官選舉制度的修訂有最終決定權，可考慮在提名委員會組成的開放程度與普選步伐之間作取捨，例如採取較保守的提名委員會組成，以爭取中央支持盡早實行普選；
- (c) 行政長官普選的模式應從香港的實際情況出發，即使是相對保守的方案，各界都應仔細考慮，因為只有踏出第一步，才可以積累經驗，從而向民主開放程度更高的普選模式演變；
- (d) 若在香港各方面條件未成熟的情況下推行普選，可能會引致很多不良後果。起步時適宜較為謹慎，例如訂出一個相對較高的門檻。在推行普選後，可隨著條件成熟而逐漸演變。可在實行普選後再就選舉制度作檢討；及
- (e) 在設計普選制度時，應顧及市民期望，否則，社會難以就方案達成共識，令政制無法向前邁進。

## 意見歸納

36. 總的而言，委員就行政長官普選模式的意見歸納如下：

### 提名委員會的組成及人數

- (a) 委員認同提名委員會的組成須符合《基本法》訂明“有廣泛代表性”的規定，並須考慮“兼顧社會各階層的利益”及“有利於資本主義經濟的發展”等原則；
- (b) 委員傾向支持提名委員會的組成參照選舉委員會；較少委員支持其他的組成方式(例如由 60 名立法會議員組成提名委員會)；
- (c) 就提名委員會的人數方面，委員傾向支持人數不應太多。較多委員提出參照目前 800 人的選舉委員會，或把人數增至 1200 或 1600 人；及
- (d) 須進一步討論提名委員會不同界別的組成及人數。

### 提名方式

- (e) 委員傾向支持在實行普選初期，提名門檻不應太低。較多委員提出把提名門檻訂於 12.5%至 25%；
- (f) 須進一步討論應否設立其他提名規定，包括訂立提名上限、規定候選人須在每個界別取得一定數目的提名；
- (g) 須進一步討論應否及如何確保選出的行政長官是中央可接受；
- (h) 須進一步討論應否先訂出一個相對較高的門檻，在推行普選後再逐步演變；及
- (i) 須進一步討論每名提名委員會委員可否提名多於一名候選人。

### 提名後的普選方式

- (j) 委員認同候選人獲提名後，應由全港市民以一人一票方式選出行政長官；及
- (k) 須進一步討論是否應只舉行一輪選舉，而毋須要求候選人須取得過半數有效票，或是要求候選人須取得過半數有效票方可當選，並在有需要時舉行多於一輪選舉。

政制事務局  
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**Commission on Strategic Development  
Committee on Governance and Political Development**

**Further Discussion on Possible Models for  
Selecting the Chief Executive by Universal Suffrage**

**Introduction**

Members have 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:

- (a) the basic policies of the State regarding Hong Kong;
- (b) 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;
- (c) the principle of an executive-led system; and
- (d) the principles of universal and equal suffrage.

2. At the meeting in July and the two workshops held in September and October this year respectively, members discussed in detail possible models for selecting the CE in accordance with the Basic Law and the concepts and principles relating to universal suffrage. This paper summarizes members’ views to facilitate members’ further discussion on the subject.

3. For members’ easy reference, we have updated the summary of views of various organizations and individuals on possible models for selecting the CE received by the Administration and the LegCo, as appended at Annex I and Annex II respectively. A summary of written

submissions received from individual members in the past and recently by the Committee Secretariat is provided at Annex III.

### **Provisions in the Basic Law**

4. Article 45 of the Basic Law provides that “the CE of the Hong Kong Special Administrative Region (“HKSAR”) shall be selected by election or through consultations held locally and be appointed by the Central People’s Government (“CPG”). The method for selecting the CE 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 selection of the CE by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures.” According to this provision, the selection and appointment of the CE involves three steps when universal suffrage is attained:

- (a) nomination by a broadly representative nominating committee in accordance with democratic procedures;
- (b) selection by universal suffrage following nomination; and
- (c) appointment by the CPG.

5. According to Article 45 of the Basic Law, the composition of the nominating committee shall be broadly representative, and nominations shall be made in accordance with democratic procedures. However, the Basic Law has not stipulated the specific composition of the nominating committee, or how nominations are to be made in accordance with democratic procedures.

### **Key issues discussed**

6. During past meetings and workshops, members have discussed the following three key issues relating to possible models for selecting the CE by universal suffrage:

- (a) composition and size of the nominating committee;
- (b) method of nomination; and

- (c) method for selecting the CE by universal suffrage following nomination.

#### Composition of the nominating committee

7. Members agreed that, in accordance with Article 45 of the Basic Law, the election of the CE by universal suffrage should be preceded by the nomination of candidates by a nominating committee. Any proposals which did not suggest the nomination of candidates by a nominating committee, or which suggested only the selection of the CE by universal suffrage (i.e. without forming a nominating committee), would not be consistent with the Basic Law requirement.

8. In examining the composition of the nominating committee, members generally agreed that, apart from considering how to ensure that the requirement of “broadly representative” as stipulated in the Basic Law will be complied with, consideration should also be given to the principles of “meeting the interests of different sectors of society”, “facilitating the development of the capitalist economy”, etc. On this basis, members discussed various options.

- (i) *To use the composition of the Election Committee as a blueprint for that of the nominating committee*

9. More members suggested using the composition of the Election Committee as a blueprint for that of the nominating committee. The main reasons included:

- (a) Article 45 and Annex I of the Basic Law stipulated respectively that the nominating committee and the Election Committee should be “broadly representative”. If the composition of the Election Committee was used as a basis, this should give rise to fewer disputes and should be conducive to forging consensus within the community on the composition of the nominating committee;
- (b) the composition of the Election Committee complied with such principles as “meeting the interests of the different sectors of society” and “facilitating the development of the capitalist economy”. Making reference to the composition of the Election Committee could ensure that the formation

of the nominating committee would comply with these principles; and

- (c) the formation of the Election Committee by four sectors was a good reference. Also, using the Election Committee as a basis could help ensure the smooth operation of the nominating committee.

10. Some members considered that if the composition of the nominating committee was to be based on that for the Election Committee, the electorate base of the nominating committee should be expanded (e.g. replacing corporate voting by individual voting, re-organizing the existing sectors, or broadening the electorate base to cover all eligible voters). However, a member did not agree to abolishing corporate voting on the ground that as there were more employees than employers in different trades, if corporate voting were abolished, there would be fewer opportunities for the business sector to participate in the election. This would be against the principle of balanced participation by all sectors of society.

11. A Member had reservation about the proposal of using the composition of the Election Committee as the basis for forming the nominating committee because the composition of the Election Committee did not comply with the principles of universal and equal suffrage. Also, voters' right of nomination was not equal.

(ii) *To form the nominating committee by 60 LegCo Members*

12. A member proposed that the nominating committee should be formed by the 60 LegCo Members because LegCo Members had the broadest electorate base and were the most representative.

13. However, quite a number of members had reservation about this proposal for the following reasons:

- (a) the Basic Law had already clearly prescribed the functions of LegCo, and had not empowered LegCo Members to nominate the CE. The proposal of allowing LegCo to nominate the CE was not consistent with the Basic Law;



- (b) according to the Basic Law, the relationship between the executive authorities and the legislature was one of mutual regulation and coordination. The proposal of allowing LegCo to nominate the CE was not consistent with the legislative intent of the Basic Law and went beyond the powers and functions of LegCo;
- (c) during the drafting of the Basic Law, the option of nominating the CE by LegCo had already been ruled out because this was not consistent with the “executive-led” principle; and
- (d) when giving their votes to LegCo Members, voters had not authorized them to nominate the CE on their behalf.

(iii) *Other Models*

14. Members noted that there were suggestions that it was not necessary to set up a nominating committee (e.g. a CE candidate would first be nominated by a certain number of registered voters, and then elected by universal suffrage on the basis of “one-person-one-vote”). Members generally agreed that these proposals were not consistent with the requirement under Article 45 of the Basic Law that the selection of the CE should be “by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures”.

Size of nominating committee

15. Quite a number of members considered that the membership of the Nominating Committee should not be too large because the composition of the nominating committee was meant to represent different sectors of the community. Too large a membership would not be consistent with the original purpose. A member pointed out that the function of the nominating committee was to nominate, rather than to elect the CE, hence, its membership should not be too large.

16. Regarding the specific number of members of the nominating committee, members expressed the following views:

- (a) Some members suggested modeling on the size of the Election Committee (i.e. 800) for reasons including the following:
  - (i) the 800-member Election Committee was broadly representative, which complied with the principle of balanced participation; and
  - (ii) too large a membership would cause operational difficulties for the nominating committee.
- (b) Some members suggested that while the nominating committee could be formed by reference to the Election Committee, its membership should be expanded to 1200, 1500 or 1600. This could allow wider participation of people from different strata and sectors in the nominating committee, thereby enhancing the representativeness of the Committee.

As for the allocation of the additional seats, members had put forth various proposals:

- (i) to allocate the additional seats to sectors which were currently not represented in the Election Committee;
- (ii) to allocate the additional seats to District Council members; however a member did not agree to this;
- (iii) to allow all Hong Kong members of the National Committee of the Chinese People's Political Consultative Conference (CPPCC) and Hong Kong deputies to the National People's Congress (NPC) to become ex-officio members, thereby realizing the status of "One Country" under Hong Kong's constitutional system;
- (iv) to establish a new sector "the establishment of the HKSAR", which would include the CE, all members of the Executive Council and LegCo, and all chairpersons of standing consultative bodies. This was to reflect the political status of the HKSAR establishment; and

- (v) suitably increase the number of members from the business sector, for example, to raise the percentage of members from the industrial, commercial and financial sectors in the Election Committee from 25% to 35% to reflect the contribution of the business sector to Hong Kong. However, a member considered that the composition of the current Election Committee was already slanted towards the industrial, commercial and professional sectors.

17. A Member proposed that the nominating committee should be formed by the 60 LegCo Members. However, quite a number of members had reservation about the proposal (see paragraph 13 above). A Member suggested enlarging the membership of the nominating committee to 3200, but this was disagreed by another Member. It was considered that Article 45 of the Basic Law provided that the CE should be “selected by election or through consultations held locally”, but consultations would not be possible if the size of the nominating committee was too large. However, a Member considered that the CE should be selected by election, not through consultations.

#### Method of Nomination

18. Regarding the method of nominating a CE candidate by the nominating committee, one of the key issues to be considered was the number of subscribers required for nominating a candidate. In deciding the nomination threshold, members generally agreed that the following factors should be taken into account:

- (1) complying with the requirement of “nomination in accordance with democratic procedures” as stipulated in the Basic Law;
- (2) ensuring that candidates had wide support and sufficient legitimacy; and
- (3) providing aspiring individuals with the opportunity to be nominated.

19. At present, Annex I to the Basic Law provides that candidates for the office of the CE may be nominated jointly by not less than 100 members (i.e. 12.5%) of the Election Committee. Each member may nominate only one candidate.

*Number of Subscribers for Nominating Candidates*

20. Quite a number of members considered that, at the early stage of implementing universal suffrage, the nomination threshold should not be too low and the number of candidates should not be too many. The major reasons were:

- (a) the nomination threshold should not be too low to avoid having too many candidates of mixed quality standing for election;
- (b) while a low nomination threshold might better comply with democratic principles, it might not be acceptable to the Central Authorities and some sectors of the community. An inability to reach consensus on this issue would slow down the progress towards universal suffrage; and
- (c) even with a higher nomination threshold, candidates would still need to face the public to canvass their votes as they would have to go through the process of universal suffrage.

21. On the other hand, a Member considered that the current threshold of 12.5% was not low and should not be increased further, or else it might discourage aspiring individuals from standing for election. A Member considered that if the threshold was too high, only a small number of candidates could stand for election, leaving the public with no choice. This would be against the principle of a democratic system.

22. Some members suggested to first determine the number of CE candidates, and then keep the number of candidates within that limit through the nomination threshold and mechanism. In this regard, there were more members who proposed to limit the number of candidates to 4 or 8, although individual members suggested the number be capped at 2, 3, 10 or 12.

23. Regarding the number of subscribers required for nominating a candidate, more members suggested maintaining the nomination threshold at 12.5% or raising it to 25%. Others proposed setting the threshold at 3%, 5%, 10%, 20% and 30%. Also, some members suggested limiting the number of candidates through the nomination mechanism, for example:

- (a) contenders must go through “a preliminary selection” whereby each member of the nominating committee could vote for two or four contenders. The two or four contenders receiving the highest number of votes would become candidates; and
- (b) to rank contenders according to the number of subscriptions they received from members of the nominating committee. The 10 contenders receiving the most subscriptions would become candidates.

24. A Member suggested that a nominating committee to be formed by LegCo could nominate candidates; an aspiring candidate with subscriptions from five LegCo Members could become a candidate. He did not regard the proposal as amounting to “legislative-led” as a CE candidate would have to obtain the support of only five, rather than all, LegCo Members. Moreover, as it would not be difficult for a CE candidate to secure sufficient nominations, the elected CE would not be obliged to look after the interests of any single party. However, a Member considered that this proposal would easily generate 12 candidates, which was too large a number.

25. A Member suggested allowing political parties or groups with certain representativeness, or 50 000 or 100 000 registered voters, to recommend a contender to the nominating committee. A contender so recommended could formally become a candidate only upon endorsement by the nominating committee. The nominating committee’s authority to make endorsement should be substantive i.e. the nominating committee could decide to endorse or not to endorse the individuals recommended for candidature. However, some members considered that this proposal was not consistent with the Basic Law requirement that the CE should be nominated by the nominating committee. Also, a Member considered that nomination by political parties was neither fair nor consistent with democratic principles. Besides, even if a candidate was nominated by a large number of voters, these voters might not necessarily be broadly

representative because they might only represent the interests of a certain group.

### *Other Nomination Requirements*

26. Assuming that a nominating committee was to be formed based on the composition of the four sectors of the Election Committee, some members suggested that consideration should be given to requiring candidates to obtain a certain number of nominations in each sector to ensure that the candidates had a certain level of support from different sectors and strata, and that the principle of meeting the interests of different sectors of society would be complied with. As for the number of nominations required in each sector, members had different suggestions, including 5%, 10%, 12.5%, 20%, 25% or 50%. However, a few members did not support the abovementioned proposal on the ground that the high threshold amounted to giving members of the nominating committee a veto power, instead of letting the public make a decision through election.

27. Some members pointed out that the Central Authorities had the ultimate power to determine the constitutional development of the HKSAR. Hence, when studying the nomination method for the CE, consideration should be given to ways to ensure that the CE elect would be acceptable to both the Central Authorities and the people of Hong Kong. In this regard, members had made various suggestions:

- (a) candidates should be required to secure nominations from certain number of LegCo Members and Hong Kong deputies to the NPC. This arrangement could reflect the constitutional role of LegCo Members and Hong Kong deputies to the NPC, ensure that the candidates would have sufficient legitimacy, and ensure that they would be acceptable to both the Central Authorities and the HKSAR;
- (b) the eligibility of candidates should be verified by the Central Authorities before the CE election by universal suffrage was held. With this arrangement, the CE elected by universal suffrage should hopefully be appointed by the Central Authorities in a smooth manner;
- (c) members of the nominating committee should be allowed to disqualify a candidate whom they considered not competent

to govern Hong Kong and are unpatriotic. Any candidate disapproved by more than half of the members could not stand for election; and

- (d) particulars of candidates should first be filed with the Central People's Government for the record, to be followed by election on the basis of "one person-one-vote."

28. However, a Member considered that the nomination mechanism should impose minimal restrictions, and did not agree to use Hong Kong deputies to the NPC or LegCo Members as "gatekeepers". Also, a Member considered that since Hong Kong deputies to the NPC were already ex-officio members of the Election Committee and had a certain degree of influence, they should not be further provided with a veto power. If the nominating committee was to be formed based on the composition of the current Election Committee, it would be sufficient to simply raise the nomination threshold to ensure that candidates would be acceptable to the Central Authorities.

29. Some members suggested setting an upper limit on the number of subscribers for nominating candidates (e.g. 50%), so that more aspiring individuals would have a chance to get nominated. However, some members held the opposite view.

30. Moreover, more members considered that each member of the nominating committee should nominate only one candidate. However, a few members suggested that each member should be allowed to nominate more than one candidate so that more aspiring individuals might stand for election.

#### Method of Universal Suffrage after Nomination

31. Members agreed that, after the nomination of candidates, the CE should be elected by universal suffrage on the basis of "one-person-one-vote".

32. As for the detailed arrangements, a few members considered that the CE should be elected through one round of election using a "first past the post" system so as to avoid wasting resources. However, a member considered that if a CE was returned by a low number of votes, this would cast doubt on his legitimacy, and hence suggested that a candidate should

receive more than half of valid votes to get elected. More than one round of election could be held if necessary. Also, a Member suggested that, on the premise that candidates were required to receive more than half of valid votes to get elected, a simpler way would be to limit the number of candidates to two. This could ensure that the candidate elected must have received more than half of the valid votes.

33. Furthermore, a Member suggested that if there was only one CE candidate, election proceedings should continue. The candidate should obtain more than half of the valid votes to get elected.

### **Other Related Issues**

34. When considering the detailed arrangements for possible models for selecting the CE by universal suffrage, members discussed an important issue, which was whether a universal suffrage proposal with a higher nomination threshold should first be adopted. This could ensure that the candidates would be acceptable to both the Central Authorities and the HKSAR, and this would in turn help secure the support of the Central Authorities and various sectors of the community for the proposal. Once universal suffrage was implemented, the electoral systems could continue to evolve gradually.

35. On this issue, members expressed different views, including the following:

- (a) to reach consensus with the Central Authorities on a model for universal suffrage, we must convince the Central Authorities that with universal suffrage, the sovereignty of the State or the “executive-led” principle would not be challenged;
- (b) as the Hong Kong community generally accepted that the Central Authorities had the ultimate power to determine the changes to the electoral method for returning the CE, we could consider trade-offs between the degree of openness of the composition of the nominating committee and the pace for achieving universal suffrage. For example, we might take a more conservative approach in forming the nominating committee in order to secure the support of the



Central Authorities to implement universal suffrage as early as possible;

- (c) we should take into account the actual situation of Hong Kong when formulating the model for electing the CE by universal suffrage. All proposals, including the relatively conservative ones, should be carefully considered by all sectors of the community. Only when the first step was taken could experience be gained and the electoral system continue to evolve into a more democratic and open universal suffrage model;
- (d) if universal suffrage was implemented when the necessary pre-conditions were not available, this would bring about many undesirable consequences. It would be appropriate to take a more cautious approach at the beginning, for example, by adopting a relatively higher nomination threshold. After implementation of universal suffrage, the electoral system could be reviewed and continue to evolve as conditions became suitable; and
- (e) public aspirations should be taken into account when designing a model for universal suffrage; otherwise, it would be difficult for the community to reach consensus, and constitutional development could not be taken forward.

### **Summary of Views**

36. Members' views on possible models for selecting the CE by universal suffrage are summarized below:

#### Composition and Size of nominating committee

- (a) members agreed that the composition of the nominating committee must meet the requirement of being "broadly representative" as stipulated in the Basic Law, and that consideration should also be given to the principles of "meeting the interests of different sectors of society", "facilitating the development of the capitalist economy", etc;

- (b) members were inclined to support the formation of the nominating committee based on the composition of the Election Committee. Fewer members supported other models (e.g. to form the nominating committee by the 60 LegCo Members);
- (c) on the size of the nominating committee, members were inclined to support that the number of members should not be too large. More members suggested modeling on the size of the Election Committee (i.e. 800), or expanding it to 1 200 or 1 600; and
- (d) it was necessary to further discuss the composition of different sectors of the nominating committee and the size of the Committee.

#### Method of Nomination

- (e) members were inclined to support that, at the early stage of implementing universal suffrage, the nomination threshold should not be too low. More members suggested setting the nomination threshold at the range of 12.5% to 25%;
- (f) it was necessary to further discuss whether to impose additional nomination requirements, including setting an upper limit on the number of subscribers or requiring candidates to obtain a certain number of nominations in each sector;
- (g) it was necessary to further discuss whether and how to ensure that the CE elect would be acceptable to the Central Authorities;
- (h) it was necessary to further discuss whether a relatively higher nomination threshold should first be set, and allow evolution of the electoral system after implementation of universal suffrage; and
- (i) it was necessary to further discuss whether each member of the nominating committee could nominate more than one candidate.

### Method of Universal Suffrage after Nomination

- (j) members agreed that after nomination, the CE should be returned by “one person, one vote”; and
- (k) it was necessary to further discuss whether the CE should be elected through one round of election without the requirement that a candidate should receive more than half of valid votes to get elected, or whether there should be a requirement that a candidate should receive more than half of valid votes to get elected, and that more than one round of election could be held if necessary.

Constitutional Affairs Bureau  
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