

## Content

Chapter One:	Background and Foreword	1
Chapter Two:	Views collected on the Method for Selecting the Chief Executive in 2012	10
Chapter Three:	Views collected on the Method for Forming the Legislative Council in 2012	19
Chapter Four:	Method for Selecting the Chief Executive in 2012 – Directions which may be Considered	27
Chapter Five:	Method for Forming the Legislative Council in 2012 – Directions which may be Considered	33
Chapter Six:	Methods for Selecting the Chief Executive and for Forming the Legislative Council in 2012 – Relevant Issues to be Considered	38
Annex I:	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 and for Forming the Legislative Council of the Hong Kong Special Administrative Region in the Year 2012 and on Issues Relating to Universal Suffrage – Adopted by the Standing Committee of the Tenth National People’s Congress at its Thirty-first Session on 29 December 2007	42
Annex II:	The Voters for Election Committee Subsectors (2009 Final Register)	45
Annex III:	The Composition of the Election Committee	47
Annex IV:	The 28 Functional Constituencies provided for under the Legislative Council Ordinance	50
Annex V:	The Electors for Functional Constituencies (2009 Final Register)	51

## Chapter One : Background and Foreword

- 1.01 Articles 45 and 68 of the Basic Law (coupled with Annexes I and II) prescribe the methods for selecting the Chief Executive (“CE”) and for forming the Legislative Council (“LegCo”). The Basic Law further prescribes the ultimate aim of selecting the CE by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures, and of electing all the members of the LegCo by universal suffrage, in the light of the actual situation in the Hong Kong Special Administrative Region (“HKSAR”) and in accordance with the principle of gradual and orderly progress.
- 1.02 In accordance with “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 NPCSC Interpretation”) promulgated on 6 April 2004, the CE of the HKSAR shall make a report to the Standing Committee of the National People’s Congress (“NPCSC”) as regards whether there is a need to make an amendment to the method for selecting the CE of the HKSAR and for forming the LegCo of the HKSAR; and the NPCSC shall, in accordance with the provisions of Articles 45 and 68 of the Basic Law of the HKSAR of the People’s Republic of China, make a determination in the light of the actual situation in the HKSAR and in accordance with the principle of gradual and orderly progress. The bills on the amendments to the method for selecting the CE and the method for forming the LegCo and its procedures for voting on bills and motions and the proposed amendments to such bills shall be introduced by the HKSAR Government into the LegCo.
- 1.03 In other words, in accordance with the Basic Law and the NPCSC Interpretation of April 2004, it is necessary to go through a “five-step mechanism” for amending the two electoral methods:
- Step One: The CE shall make a report to the NPCSC as to whether there is a need to amend the two electoral methods;
- Step Two: A determination shall be made by the NPCSC that the

two electoral methods may be amended;

Step Three: The motions on the amendments to the two electoral methods shall be introduced by the HKSAR Government to the LegCo, and be endorsed by a two-thirds majority of all the members of the LegCo;

Step Four: Consent shall be given by the CE to the motions endorsed by the LegCo;

Step Five: The relevant bill shall be reported by the CE to the NPCSC for approval or for the record.

1.04 In order to roll forward Hong Kong's democratic development towards the ultimate aim of universal suffrage in accordance with the Basic Law, the HKSAR Government established the Constitutional Development Task Force ("the Task Force") in January 2004, which was tasked to take forward the work relating to constitutional development. The Government also decided to initiate for the first time the mechanism for amending the electoral methods for the CE and the LegCo in accordance with the NPCSC Interpretation of April 2004, with a view to enhancing the democratic elements of the CE election in 2007 and the LegCo election in 2008, and rolling forward Hong Kong's democratic system.

1.05 After several rounds of public consultation, the HKSAR Government put forth, in October 2005, a package of proposals for amending the methods for selecting the CE in 2007 and for forming the LegCo in 2008. The proposed package was aimed at enhancing the democratic elements of the two elections by including all District Council members in the Election Committee, enabling them to elect among themselves more representatives to the LegCo, and increasing the number of district-based seats returned by direct elections.

- 1.06 At the same time, the CE initiated in November 2005, for the first time in Hong Kong, discussions within the community through the Commission on Strategic Development (“the Commission”) about the models, roadmap and timetable for implementing universal suffrage.
- 1.07 Although the proposed package for the 2007/08 elections received the support of the majority of the public and more than half of all the LegCo Members, when it was put to vote at the LegCo in December 2005, it was not endorsed by a two-thirds majority of all the LegCo Members as required by Annexes I and II to the Basic Law. At that time, some of the Members vetoed the proposed package for the reasons that the Central Authorities and the HKSAR Government could not provide a clear universal suffrage timetable, and that under the Government’s proposed package, appointed District Council members could take part in the election among members for returning the seats in the Election Committee and the LegCo District Council functional constituency (“FC”) seats.
- 1.08 In accordance with the NPCSC Interpretation of 6 April 2004, if no amendment is made to the methods for selecting the CE and for forming the LegCo, as stipulated in Annexes I and II to the Basic Law, the provisions relating to the two electoral methods in Annexes I and II to the Basic Law will continue to apply to the CE election in 2007 and the LegCo election in 2008.
- 1.09 Notwithstanding that, during the period between end-2005 and mid-2007, the HKSAR Government, through the Commission, continued to promote wide-ranging discussions within the community on the principles, models, roadmap and timetable for implementing universal suffrage for the CE and the LegCo.
- 1.10 During his campaign for the third-term CE election in early 2007, the CE made it clear that he would endeavour to forge consensus within the community within his new term, so that universal suffrage could be implemented as soon as possible. The CE has already fulfilled his electoral promise: the third-term HKSAR Government issued the Green paper on Constitutional Development (“the Green Paper”) on 11 July to consult the public extensively on the options, roadmap and timetable for implementing universal suffrage for the CE and the LegCo.

1.11 On 12 December 2007, the CE submitted a report to the NPCSC, reflecting faithfully the views of different sectors of the community on the issue of universal suffrage received during the public consultation period, including that more than half of the public supported the implementation of universal suffrage for the CE and the LegCo (“dual universal suffrage”) in 2012, and at the same time, implementing universal suffrage for the CE first by no later than 2017 would stand a better chance of being accepted by the majority in our community.

1.12 Having considered the report submitted by the CE, the NPCSC adopted, on 29 December 2007, the “Decision on Issues Relating to the Methods for Selecting the Chief Executive of the Hong Kong Special Administrative Region and for Forming the Legislative Council of the Hong Kong Special Administrative Region in the Year 2012 and on Issues Relating to Universal Suffrage” (“the NPCSC decision”), which makes clear the universal suffrage timetable for Hong Kong. In accordance with the NPCSC decision:

“The election of the fifth CE of the HKSAR in the year 2017 may be implemented by the method of universal suffrage; that after the CE is selected by universal suffrage, the election of the LegCo of the HKSAR may be implemented by the method of electing all the members by universal suffrage.”

1.13 At the same time, regarding the methods for selecting the CE and for forming the LegCo in 2012, the NPCSC decision provides that:

“The election of the fourth CE of the HKSAR in the year 2012 shall not be implemented by the method of universal suffrage. The election of the fifth term LegCo of the HKSAR in the year 2012 shall not be implemented by the method of electing all the members by universal suffrage. The half-and-half ratio between members returned by FCs and members returned by geographical constituencies (GCs) through direct elections shall remain unchanged. The procedures for voting on bills and motions in the LegCo shall remain unchanged. Subject to the aforementioned, appropriate amendments conforming to the principle of gradual and orderly progress may be made to the specific method for selecting the fourth CE of the HKSAR in the year 2012 and the specific

method for forming the fifth term LegCo of the HKSAR in the year 2012 in accordance with the provisions of Articles 45 and 68, and those of Article 7 of Annex I and Article III of Annex II to the Basic Law of the HKSAR of the People's Republic of China.”

The full text of the NPCSC decision of December 2007 is provided at Annex I.

- 1.14 In other words, the NPCSC decision has made it clear that the CE may be selected by universal suffrage in 2017, and that after the CE is selected by universal suffrage, all the members of the LegCo may be elected by universal suffrage. The NPCSC decision also stipulates that, although universal suffrage will not be implemented in 2012, appropriate amendments conforming to the principle of gradual and orderly progress may be made to the two electoral methods in accordance with the Basic Law.
- 1.15 In attaining universal suffrage, the aim of the current-term HKSAR Government is to further democratize the electoral system for 2012 under the framework set out by the NPCSC decision, so as to pave the way for implementing universal suffrage for the CE in 2017 and for the LegCo in 2020.
- 1.16 Since 2004, the Hong Kong community has been discussing extensively how the current electoral methods for selecting the CE and for forming the LegCo may be amended. Since its establishment in January 2004, the Task Force has published five reports respectively to consult the public on the methods for selecting the CE in 2007 and for forming the LegCo in 2008.
- 1.17 Following the NPCSC decision of December 2007, we established a task group on constitutional development under the Commission to promote discussion within the community on the two electoral methods for 2012.

- 1.18 In order to collect views widely from different sectors of the community on the two electoral methods for 2012, the Constitutional and Mainland Affairs Bureau has prepared the “Consultation Document on the Methods for Selecting the CE and for Forming the LegCo in 2012” (“the consultation document”) for conducting a three-month public consultation.
- 1.19 This consultation document is prepared on the basis of the Commission’s discussions and the proposals put forth by different political parties and groups, as well as individuals and organisations from the community after the NPCSC had promulgated the decision in December 2007. We have also made reference to the views collected in the previous public consultation exercises conducted by the Task Force on the methods for selecting the CE in 2007 and for forming the LegCo in 2008. The full text of all relevant proposals received from various political parties and groups, individuals and organisations, and the discussion papers and summary of views of the Commission are provided in Appendices I and II to the consultation document respectively for reference by the public.
- 1.20 In the process of summarising the views received previously from different sectors of the community, we note that although the discussion within the community still shows diverse views on how the two electoral methods should be amended, there is already considerable consensus on certain relevant issues.
- 1.21 We also note that in the previous public consultation exercises on constitutional development conducted by the HKSAR Government, there were suggestions that the Government should put forth specific proposals for consulting the public.
- 1.22 Given that the issue of how the current electoral methods for selecting the CE and for forming the LegCo should be amended has been widely discussed within the community in the past few years, and that quite a number of specific proposals have been put forth, we have tried to set out in the consultation document the directions which may be considered regarding the key elements of the two electoral methods. The aim is to facilitate more focussed discussion by the public and different sectors of the community, in the hope that this will help forge a broad consensus within the community.

1.23 In setting out in the consultation document the directions which may be considered regarding the two electoral methods for 2012, aside from making reference to the views received from different sectors of the community, we have also taken into account the following key factors:

- (i) the democratic elements of the two elections for 2012 should be enhanced in accordance with the Basic Law and the NPCSC decision and in compliance with the principle of gradual and orderly progress;
- (ii) the proposed package for the 2012 elections can have the possibility of being supported by the majority of the public, the LegCo, the CE and the Central Authorities; and
- (iii) in 2005, some of the LegCo Members vetoed the Government's proposed package for the 2007/08 elections for the reasons that there was no universal suffrage timetable and that appointed District Council members were included in the proposed package. Now that the universal suffrage timetable has been set, the proposed package for the 2012 elections should be able to narrow differences and help forge consensus, so as to roll forward Hong Kong's democratic development.

1.24 We should emphasise that the HKSAR Government adopts an open attitude with regard to the electoral methods for the CE and the LegCo in 2012. Our aim is to, through the public consultation, first listen to the views of the public, organisations and individuals from different sectors of the community, as well as the LegCo on how the two electoral methods should be amended. We will then consider these views together with the proposals received in the past before formulating the Government's proposed package.



- 1.25 Given that the NPCSC decision has made clear the universal suffrage timetable, the current-term HKSAR Government is determined to take forward the constitutional development in 2012 in accordance with the NPCSC decision, so as to pave the way for implementing universal suffrage in future.
- 1.26 Regarding the specific model for implementing universal suffrage for the CE in 2017, the fourth-term CE and the fifth-term LegCo should address together the relevant issues. As for the option for implementing universal suffrage for the LegCo in 2020, the CE returned by universal suffrage in 2017 would have to work with the sixth-term LegCo to deal with the issue.
- 1.27 There are views that dual universal suffrage should be implemented in 2012, but this will not comply with the NPCSC decision, and hence, cannot be implemented.
- 1.28 There are also views that the 2012 election and the universal suffrage arrangements for 2017/2020 should be dealt with concurrently. However, in accordance with the NPCSC decision, the HKSAR can only propose amendments to the two electoral methods for 2012. As for initiating the mechanism for amending the electoral methods for the CE and the LegCo to attain universal suffrage, in accordance with the NPCSC decision, the CE shall make a report to the NPCSC in accordance with the relevant provisions of the Basic Law and the NPCSC Interpretation of Article 7 of Annex I and Article III of Annex II to the Basic Law. A determination thereon shall be made by the NPCSC. At present, we obviously have not yet reached such a stage of work.
- 1.29 Hence, at this stage, the current-term HKSAR Government has only been authorised by the NPCSC to determine the methods for selecting the CE and for forming the LegCo in 2012. As regards how the two electoral methods should be amended for attaining universal suffrage, this is beyond what the current-term HKSAR Government has been authorized to deal with.
- 1.30 Nonetheless, we note that some political parties and groups in the LegCo and some individuals and organizations in the community hope that discussion on universal suffrage models can commence as soon as possible. To respond to this aspiration, the HKSAR Government will summarise and conclude any views relating to

universal suffrage received during the public consultation on the two electoral methods for 2012. These views will serve as reference for the HKSAR Government to be formed in 2012 and 2017 for dealing with the issue of universal suffrage for the CE and the LegCo.

## **Chapter Two : Views collected on the Method for Selecting the Chief Executive in 2012**

### **Key Issues to be Considered**

- 2.01 Regarding the CE election in 2012, although the NPCSC decision of December 2007 stipulates that it shall not be implemented by the method of universal suffrage, there is still ample room for making amendments to the electoral method to enhance its democratic elements, so as to pave the way for implementing universal suffrage in 2017.
- 2.02 In discussing how the relevant electoral method should be amended, we should take the existing provisions of Annex I to the Basic Law as the basis (including that the CE shall be elected by a broadly representative Election Committee), and consider making appropriate adjustments to the size and composition of the Election Committee, as well as the nominating arrangements. On the premise that the Basic Law and the NPCSC decision must be complied with, we may consider the following five key issues:
- (I) The number of members of the Election Committee;
  - (II) The composition of the Election Committee;
  - (III) The electorate base of the Election Committee;
  - (IV) The arrangements for nominating candidates for the office of the CE; and
  - (V) Political affiliation of the CE.

### **Current Composition of the Election Committee**

- 2.03 In accordance with the provisions of Annex I to the Basic Law, the CE shall be elected by a broadly representative Election Committee in accordance with the Basic Law and appointed by the Central People's Government. The Election Committee is composed of 800 members returned from the four sectors. Details are provided in Annex II.

2.04 The Election Committee is composed of members from the following four sectors :

Industrial, commercial and financial sectors 200

The professions 200

Labour, social services, religious and other sectors 200

Members of the LegCo, 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 200

2.05 In accordance with the provisions of Annex I to the Basic Law, the delimitation of the various sectors of the Election Committee, the organizations in each sector eligible to return Election Committee members and the number of such members returned by each of these organizations shall be prescribed by an electoral law enacted by the HKSAR in accordance with the principles of democracy and openness. Corporate bodies in various sectors shall, on their own, elect members to the Election Committee, in accordance with the number of seats allocated and the election method as prescribed by the electoral law.

2.06 The Chief Executive Election Ordinance (Chapter 569) stipulates, in accordance with the provisions of Annex I to the Basic Law, the detailed statutory requirements and procedures governing the election of the CE, including the composition of the Election Committee. The four sectors of the Election Committee are constituted by 38 subsectors. Details are provided in Annex III.

## **Views collected on the Method for Selecting the Chief Executive in 2012**

2.07 To facilitate public discussion, the paragraphs below set out and summarize the views put forth by members of the Commission, as well as individuals and organisations from the community on the method for selecting the CE in 2012 after the NPCSC had made the decision in December 2007.

### (I) The number of members of the Election Committee

2.08 Following the NPCSC decision which has made clear that the CE may be elected by universal suffrage in 2017, a view emerged in the Commission's discussion which considers that, as universal suffrage for the CE may be implemented in 2017, the Election Committee in 2012 would operate only once. Hence, no substantial change should be made to the Election Committee, and the number of members should be maintained at 800<sup>1</sup>.

2.09 In the discussion of the Commission and the relevant proposals put forth by individuals and organizations from the community, there are also views that the number of members of the Election Committee should remain at 800<sup>2</sup>. The reasons include:

- (i) the existing Election Committee already has broad representation; and
- (ii) too large a membership will cause operational difficulties for the Committee.

2.10 At the same time, there are views that the number of members of the Election Committee should be increased<sup>3</sup>. The main reasons

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<sup>1</sup> For example, the Liberal Party has put forth a relevant proposal; please refer to Appendix I (CDA 033) for details.

<sup>2</sup> For example, the Business and Professionals Federation of Hong Kong has put forth a relevant proposal; please refer to Appendix I (CDA 001, CDA 052 and CDA 100) for details.

<sup>3</sup> For example, Dr. Hon Priscilla Leung and Kowloon West New Dynamic and Hong Kong Professionals and Senior Executives Association have put forth relevant proposals; please refer to Appendix I (CDA 104 and CDA 042) for details.

include:

- (i) the majority of the public supported the proposal to increase the number of members of the Election Committee when the Government consulted the public on the proposed package for the 2007/08 elections;
- (ii) adjustment should be made to the size of the Election Committee to tie in with the development of society; and
- (iii) increasing the participation of individuals from different sectors of the community will enhance the representativeness and democratic elements of the Election Committee. This can allow more room and opportunities for members of the public to take part in the CE election and realise democratic progress and development.

2.11 Regarding the specific number of members, in the discussion of the Commission and the relevant proposals put forth by individuals and organisations from the community, there are views that the number of members of the Election Committee should be increased to 1000, 1200<sup>4</sup>, 1600 and 1800<sup>5</sup>.

2.12 There are also views that the key issue is the electorate base, rather than the size, of the Election Committee, which should be broadened to enhance the legitimacy of members<sup>6</sup>.

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<sup>4</sup> For example, a Commission member Mr David Lie-A-Cheong Tai-chong, Hong Kong Democratic Development Network and Hong Kong Professionals and Senior Executives Association have put forth relevant proposals; please refer to Appendix I (CDA 053, CDA 039 and CDA 042) for details.

<sup>5</sup> For example, a Commission member Hon. Regina Ip has put forth a relevant proposal; please refer to Appendix I (CDA 035) for details.

<sup>6</sup> For example, Mrs Anson Chan and her Core Group (the Core Group) have put forth such views; please refer to Appendix I (CDA 049) for details.

## (II) The composition of the Election Committee

- 2.13 In accordance with the NPCSC decision, when universal suffrage for the CE is implemented, the nominating committee may be formed with reference to the current provisions regarding the Election Committee in Annex I to the Basic Law.
- 2.14 There are views that the existing composition of four sectors should be maintained for the Election Committee<sup>7</sup>. The main reason is that this could realize the principle of balanced participation and balance the interests of different sectors of the community.
- 2.15 As regards the allocation of seats among different sectors, specific suggestions include:
- (i) maintaining the same number of seats being allocated to the four sectors. The number of seats for the four sectors should be increased evenly, so as to comply with the principle of balanced participation<sup>8</sup>;
  - (ii) adjusting the proportion of seats among the four sectors, for example:
    - (a) by including all District Council members (i.e. including elected and appointed District Council members)<sup>9</sup>;
    - (b) by including all elected District Council members<sup>10</sup>; and

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<sup>7</sup> For example, a Commission member Ms Maria Tam Wai-chu and the Liberal Party have put forth relevant proposals; please refer to Appendix I (CDA 032 and CDA 033) for details.

<sup>8</sup> For example, a Commission member Ms Maria Tam Wai-chu has put forth a relevant proposal; please refer to Appendix I (CDA 032) for details.

<sup>9</sup> For example, a Commission member Mr David Lie-A-Cheong Tai-chong and Hong Kong Professionals and Senior Executives Association have put forth relevant proposals; please refer to Appendix I (CDA 053 and CDA 042) for details.

<sup>10</sup> For example, a Commission member Hon Regina Ip (Appendix I CDA 035), the Hong Kong Democratic Development Network (Appendix I CDA 039) and the Civic Party (Appendix I CDA 121 and CDA 145) have put forth relevant proposals.

(iii) by adding new subsectors<sup>11</sup>.

(III) The electorate base of the Election Committee

2.16 Regarding the electorate base of the Election Committee, there are views that it should be expanded. Specific proposals include:

(i) replacing “corporate votes” with “director’s / executive’s votes”<sup>12</sup>; and

(ii) increasing the proportion of District Council members in the Election Committee, so as to enhance the representativeness and democratic elements of the Election Committee through District Council members who have a public mandate<sup>13</sup>.

2.17 However, in the discussion of the Commission, there were suggestions that if “corporate votes” were to be replaced with “director’s / executive’s / individual votes”, while the competitiveness of the relevant subsectors would be enhanced, the electorate base of the other subsectors would remain unchanged. This would result in imbalance of competitiveness among different sectors of the Election Committee, which might give rise to unfairness. There were also views that as there was insufficient time for the community to discuss how the electorate base should be adjusted, it would be more appropriate for the existing electorate base to remain unchanged.

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<sup>11</sup> For example, the Liberal Party has put forth a relevant proposal; please refer to Appendix I (CDA 130) for details.

<sup>12</sup> For example, the Liberal Party has put forth a relevant proposal; please refer to Appendix I (CDA 033) for details.

<sup>13</sup> For example, the Hong Kong Professionals and Senior Executives Association has put forth a relevant proposal; please refer to Appendix I (CDA 042) for details.



2.18 There are also views that the existing 800-member Election Committee already has a broad electorate base. This can be relied on to elect a candidate with broad support, and hence no adjustment is needed<sup>14</sup>.

(IV) The arrangements for nominating candidates for the office of the CE

2.19 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 of the Election Committee (i.e. one-eighth of total membership of the Election Committee).

2.20 There are views that the nomination threshold should be maintained at the ratio of one-eighth of the total membership of the Election Committee<sup>15</sup>. The main reasons include:

- (i) the existing requirement already allows sufficient room for competition. It can also ensure that candidates have sufficient support; and
- (ii) the existing nomination threshold is appropriate. This can avoid having too many candidates and leading to a waste of community resources.

2.21 There are also views that the nomination threshold should be lowered<sup>16</sup>, so as to make the election more competitive.

2.22 In the discussion of the Commission, views were expressed that candidates should be required to obtain a certain number of

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<sup>14</sup> For example, the Business and Professionals Federation of Hong Kong has put forth a relevant proposal; please refer to Appendix I (CDA 001) for details.

<sup>15</sup> For example, the Liberal Party (Appendix I CDA 033), the Business and Professionals Federation of Hong Kong (Appendix I CDA 001, CDA 052 and CDA 100) and the Hong Kong Professionals and Senior Executives Association (Appendix I CDA 042) have put forth relevant proposals.

<sup>16</sup> For example, the Professional Commons has put forth a relevant proposal; please refer to Appendix I (CDA 043, CDA 044 and CDA 070) for details.

nominations from each sector<sup>17</sup> to ensure that candidates have a certain level of support in different sectors and strata of society. As candidates represent not only the interest of a single sector, this would be consistent with the principle of meeting the interests of different sectors of society. However, there were views that this would amount to giving certain sectors a veto power, which would make it more difficult for people to take part in the election and would cause intense disputes.

- 2.23 There are also views that an upper limit on the number of subscribers should be set<sup>18</sup>, so that more potential candidates could have an opportunity of being nominated. However, there are views that such a limit should not be put in place<sup>19</sup>.

#### (V) Political affiliation of the CE

- 2.24 At present, the Chief Executive Election Ordinance (Chapter 569) allows members of political parties to run in the CE election, but such candidates have to declare that they stand in their individual capacities. Only when a member of a political party is elected will he be required to make a statutory declaration in public within seven working days after he is elected that he will no longer be a member of any political party, and undertake in writing that he will not become a member of any political party or be bound by the discipline of any political party during his term of office.

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<sup>17</sup> For example, a Commission member Ms Maria Tam Wai-chu (Appendix I CDA 032) and the Business and Professionals Federation of Hong Kong (Appendix I CDA 001, CDA 052 and CDA 100) have put forth relevant proposals.

<sup>18</sup> For example, a Commission member Hon Regina Ip suggests that the Election Committee should be composed of 1,800 members and that an upper limit on the number of subscribers should be set at 450; please refer to Appendix I (CDA 035) for details. The Professional Commons suggests that the Election Committee should be composed of 800 members and that a lower limit of subscribers should be set at 50 and an upper limit should be set at 100. Please refer to Appendix I (CDA 043, CDA 044, CDA 070 and CDA 125) for details.

<sup>19</sup> For example, the Liberal Party has put forth a relevant proposal; please refer to Appendix I (CDA 033) for details.

2.25 There are views that such requirement should be abolished, so as to facilitate the development of political parties<sup>20</sup>. However, there are views from among those which we have received previously that the current requirement should be retained, so as to ensure that the CE will uphold fairness and maintain impartiality in his governance<sup>21</sup>.

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<sup>20</sup> For example, the Civic Party has put forth a relevant proposal, please refer to Appendix I (CDA 121, CDA 122 and CDA 145) for details.

<sup>21</sup> According to the opinion poll conducted by the Constitutional Development Task Force in September 2005 regarding the methods for selecting the CE in 2007 and for forming LegCo in 2008, 73% of the respondents indicated support for retaining the current requirement that the CE should not have any political affiliation.

## **Chapter Three : Views collected on the Method for Forming the Legislative Council in 2012**

### **Key Issues to be Considered**

- 3.01 Regarding the LegCo election in 2012, although the NPCSC decision of December 2007 stipulates that it shall not be implemented by the method of universal suffrage, that the half-and-half ratio between members returned by FCs and members returned by GCs through direct elections shall remain unchanged, and that the procedures for voting on bills and motions in the LegCo shall remain unchanged, there is still ample room for amending the electoral method to enhance its democratic elements.
- 3.02 On the premise that the Basic Law and the NPCSC decision must be complied with, we may consider the following three key issues:
- (I) The number of seats in the LegCo;
  - (II) The electorate base of the FCs; and
  - (III) Whether the existing arrangement that LegCo seats may be returned by Hong Kong permanent residents who are not of Chinese nationality or who have the right of abode in foreign countries should be adjusted.

### **Current Composition of the Legislative Council**

- 3.03 In accordance with the provisions of Annex II to the Basic Law, the LegCo shall be composed of 60 members in each term. Annex II prescribes the composition of the LegCo in its first three terms. Regarding the composition of the third-term LegCo, the number of seats returned by GCs through direct elections and by FCs is both 30.
- 3.04 As for the fourth-term LegCo formed in 2008, according to the NPCSC Interpretation of 6 April 2004, if no amendment is made to the method for forming the LegCo as provided in Annex II to the Basic Law, the provisions relating to the method for forming the third-term LegCo and the provisions relating to its procedures for

voting on bills and motions in Annex II to the Basic Law will still be applicable. As the proposed package put forth by the HKSAR Government in 2005 to amend the electoral method for forming the LegCo in 2008 was not endorsed by a two-thirds majority of all the LegCo Members as required by the Basic Law, the electoral method and the procedures for voting on bills and motions for the fourth-term LegCo remained unchanged.

3.05 In accordance with the provisions of Annex II to the Basic Law, the Legislative Council Ordinance (Chapter 542) specifies detailed statutory provisions on the division of GCs and the voting method for direct elections therein, the delimitation of functional sectors, their seat allocation and election methods, etc.

3.06 As regards direct geographical elections, the Legislative Council Ordinance stipulates that there should be five GCs. In general, the 30 seats to be returned by GCs through direct elections are distributed among the constituencies in accordance with their population distribution. Details are as follows :

<b>Geographical Constituency</b>	<b>Number of seats</b>
Hong Kong Island	6
Kowloon East	4
Kowloon West	5
New Territories East	7
New Territories West	8

3.07 For elections in GCs, the list voting system operating under the largest remainder formula, which is a form of proportional representation voting system, is adopted. Under this system, candidates contest the election in the form of lists. Each list may consist of any number of candidates up to the number of seats in the relevant constituency. An elector is entitled to cast one vote for a list. Seats are distributed among the lists according to the number of votes obtained by the respective lists.

3.08 For FC elections, the Legislative Council Ordinance provides for the establishment of 28 FCs. Details are provided in Annex IV. Except for the labour FC which returns three members, all FCs return one LegCo Member each.

## **Views collected on the Method for Forming the Legislative Council in 2012**

3.09 To facilitate public discussion, the paragraphs below set out and summarise the views put forth by members of the Commission, as well as individuals and organisations from the community on the method for forming the LegCo in 2012 after the NPCSC had made the decision in December 2007.

### **(I) The number of seats in the LegCo**

3.10 In the discussion of the Commission and the relevant proposals put forth by individuals and organizations from the community, there are more views that the number of LegCo seats should be increased. The main reasons include:

- (i) the workload of the LegCo has increased with population growth. Increasing the number of LegCo seats could meet the operational requirements of the LegCo;
- (ii) this could broaden the avenues for political participation and enable more people of different backgrounds, experience and stance to participate in politics. This would be conducive to the nurturing of political talents;
- (iii) the population-to-seat ratio of Hong Kong is relatively higher than those of overseas legislatures; and
- (iv) this could strengthen the function of the LegCo in reflecting a full spectrum of public opinions, thus enhancing democratic elements and public participation.

3.11 As regards the specific number of seats, there are views that the number should be increased to 70<sup>22</sup> or 80<sup>23</sup>.

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<sup>22</sup> For example, two Commission members Ms Maria Tam Wai-chu (Appendix I CDA 034 and CDA 041) and Mr Eric Li (Appendix I CDA 037), the Hong Kong Democratic Development Network (Appendix I CDA 039), and the Hong Kong Professionals and Senior Executives Association (Appendix I CDA 042) have put forth relevant proposals.

3.12 However, there are also views that the number of seats should remain at 60<sup>24</sup>. The main reasons include:

- (i) before a final view has been taken on the relevant arrangements for implementing universal suffrage for the LegCo in future, it will not be appropriate to increase the number of LegCo seats, so as to avoid stirring up disputes within the community on how the new seats should be allocated; and
- (ii) increasing the number of seats would hamper the LegCo's efficiency and affect its work.

## (II) The electorate base of the FCs

3.13 If the number of LegCo seats is to be increased to 70 or 80, in accordance with the NPCSC decision, the number of seats returned by GCs through direct elections and returned by FCs should be increased by 5 or 10 respectively.

3.14 According to the 2009 Final Register, there are about 226,000 registered electors for the FCs, including 16,000 corporate bodies and 210,000 individuals. Details are provided in Annex V.

3.15 There are more views among those which we have received previously that the electorate base of the FCs should be broadened<sup>25</sup>. The main reasons include:

- (i) this could enhance the representativeness of FC elections, to cover a wider range of sectors, and to meet the interests of

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<sup>23</sup> For example, a Commission member Hon Regina Ip has put forth a relevant proposal; please refer to Appendix I (CDA 035) for details.

<sup>24</sup> For example, a Commission member Hon Abraham Shek Lai-him has put forth a relevant proposal; please refer to Appendix I (CDA 046) for details.

<sup>25</sup> For example, the Business and Professionals Federation of Hong Kong (Appendix I CDA 052 and CDA 100), the Professional Commons (Appendix I CDA 043, CDA 044, CDA 070, CDA 125), Dr. Hon Priscilla Leung and Kowloon West New Dynamic (Appendix I CDA 104) have put forth relevant proposals.

different sectors of the community;

- (ii) this could enhance the legitimacy of the elections; and
- (iii) this could serve as a transitional arrangement leading to universal suffrage.

3.16 If the number of FC seats is to be increased, there are diverse views as to how the new FC seats should be dealt with so as to broaden the electorate base of the FCs.

3.17 In the discussion of the Commission and the relevant proposals put forth by organizations and individuals from the community, there are views that new FCs should be added<sup>26</sup>. This could facilitate the development of Hong Kong's capitalist system and meet the interests of different sectors of society. However, there are also views which are opposed to the addition of new FCs; the reason being that the selective inclusion of new sectors will give rise to controversy within the community, which will make it difficult for the community to reach consensus.

3.18 There are also views that the number of FC seats allocated to the existing District Council FC should be increased<sup>27</sup>. The main reasons include:

- (i) given the wider electorate base of District Council members, this could enhance the democratic elements and representativeness of FCs, which will be conducive to Hong Kong's democratic development;

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<sup>26</sup> For example, the Liberal Party has proposed that a new FC for real estate agents should be added; please refer to Appendix I (CDA 130) for details. A Commission member Ms Maria Tam Wai-chu has proposed that new FCs should be added for Chinese enterprises, grassroot and social groups, women, youth, Small and Medium Enterprises (SMEs), the creative industry and the Chinese medicine industry; please refer to Appendix I (CDA 034 and CDA 041) for details. The Savantas Policy Institute has proposed that new FCs should be added for the civil service, SMEs and elderly service; please refer to Appendix I (CDA 050) for details.

<sup>27</sup> For example, a Commission member Mr David Lie-A-Cheong Tai-chong and the Hong Kong Professionals and Senior Executives Association have put forth relevant proposals; please refer to Appendix I (CDA 053 and CDA 042) for details.



- (ii) District Council members have their own important social function. If the number of LegCo seats is to be increased for District Council members, this will help nurture political talents among them; and
- (iii) increasing the number of seats allocated to District Council members could help forge consensus within the community.

3.19 Regarding the increase in the number of seats for the existing District Council FC, there are views that such seats should be returned through election by both appointed and elected District Council members from among themselves<sup>28</sup>. There are also views that only elected District Council members should take part in the relevant election.

3.20 However, there are also views which are opposed to the increase in the number of seats for the District Council FC<sup>29</sup>. The reasons include:

- (i) District Councils lack the relevant functional or occupational nature;
- (ii) if the number of seats for the District Council FC is to be increased, the electorate base of these FC seats will duplicate with that of the new seats returned by GCs through direct elections; and
- (iii) increasing only the number of District Council seats will not be entirely consistent with the principle of balanced participation.

3.21 There are also views that “corporate votes” should be abolished<sup>30</sup>

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<sup>28</sup> For example, the Hong Kong Professionals and Senior Executives Association has put forth a relevant proposal; please refer to Appendix I (CDA 042) for details.

<sup>29</sup> For example, the Business and Professionals Federation of Hong Kong (Appendix I (CDA 052) and the Core Group (Appendix I CDA 049) have put forth such views.

<sup>30</sup> For example, the Professional Commons has put forth a relevant proposal; please refer to Appendix I (CDA 043 and CDA 044) for details.

or should be replaced with “director’s votes”<sup>31</sup>, and that certain existing FCs should be reorganized<sup>32</sup>.

3.22 However, there are views that no change should be made to the existing electorate base of the FCs<sup>33</sup> and that it is not necessary to replace “corporate votes” with “director’s / individual votes”.

(III) Whether the existing arrangement that LegCo seats may be returned by Hong Kong permanent residents who are not of Chinese nationality or who have the right of abode in foreign countries should be adjusted

3.23 In accordance with Article 67 of 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 LegCo, provided that the proportion of such members does not exceed 20 percent of the total membership of the Council<sup>34</sup>.

3.24 In the discussion of the Commission and the relevant proposals put forth by individuals and organizations from the community, there is

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<sup>31</sup> For example, the Core Group has put forth a relevant proposal; please refer to Appendix I (CDA 049) for details.

<sup>32</sup> For example, the Civic Party suggests merging FCs of a similar nature or those with a relatively smaller electorate base; please refer to Appendix I (CDA 121 and CDA 145) for details. The Professional Commons suggests merging the existing FCs into several large FCs; please refer to Appendix I (CDA 043, CDA 044, CDA 070 and CDA 125) for details.

<sup>33</sup> For example, two Commission members Ms Maria Tam Wai-chu and Hon Abraham Shek Lai-him have put forth relevant proposals; please refer to Appendix I (CDA 034 and CDA 046) for details.

<sup>34</sup> The Legislative Council Ordinance stipulates that Hong Kong permanent residents who are not of Chinese nationality or who have the right of abode in foreign countries can participate in LegCo elections through the following 12 FCs (which constitute 20 percent of the LegCo seats): (1) the legal FC; (2) the accountancy FC; (3) the engineering FC; (4) the architectural, surveying and planning FC; (5) the real estate and construction FC; (6) the tourism FC; (7) the commercial (first) FC; (8) the industrial (first) FC; (9) the finance FC; (10) the financial services FC; (11) the import and export FC; (12) the insurance FC.

a general view that the existing requirement should be maintained<sup>35</sup>. The justifications include:

- (i) this is a special arrangement under the “One Country, Two Systems” to allow the LegCo to attract different talents, which reflects Hong Kong’s inclusive and pluralistic culture;
- (ii) this arrangement has been working smoothly. As there are actually only very few LegCo Members who are not of Chinese nationality or have the right of abode in foreign countries, it is not necessary to change the existing arrangement; and
- (iii) the relevant arrangement may continue to apply only to FC seats.

3.25 However, there are also views that the relevant ratio should be reduced gradually or that the arrangement should be abolished in the long run. The justifications include:

- (i) this is only a transitional arrangement. The relevant ratio should be reduced in phases, with a view to abolishing the arrangement eventually; and
- (ii) such an arrangement is not common among overseas legislatures.

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<sup>35</sup> For example, two Commission members Ms Maria Tam Wai-chu and Mr Eric Li, and the Hong Kong Professionals and Senior Executives Association have put forth relevant proposals; please refer to Appendix I (CDA 034, CDA 037 and CDA 042) for details.

## **Chapter Four : Method for Selecting the Chief Executive in 2012 – Directions which may be Considered**

4.01 In considering the method for selecting the CE in 2012, we should take into account the following principles:

- (i) it must comply with the relevant provisions of the NPCSC decision of 29 December 2007, including that appropriate amendments conforming to the principle of gradual and orderly progress may be made to the method for selecting the CE in 2012;
- (ii) it must be consistent with the principles under the Basic Law, including 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 the HKSAR;
- (iii) it can take into account the views received from different sectors of the community during the previous and this public consultation exercises, respond to the aspiration of the community on constitutional development, and enhance the democratic elements of the election;
- (iv) it can help increase participation of individuals from different sectors of the community, enhance the representiveness and democratic elements of the election, realise democratic enhancement and development, and pave the way for implementing universal suffrage for the CE in 2017; and
- (v) it can have the possibility of being accepted by the majority of the public, the LegCo, the CE and the Central Authorities.

4.02 Regarding the method for selecting the CE in 2012, there are the following five key issues to be considered :

- (I) The number of members of the Election Committee;
- (II) The composition of the Election Committee;

- (III) The electorate base of the Election Committee;
- (IV) The arrangements for nominating candidates for the office of the CE; and
- (V) Political affiliation of the CE.

4.03 The paragraphs below set out the directions which in the view of the HKSAR Government may be considered in respect of the key elements of the method for selecting the CE in 2012.

(I) The number of members of the Election Committee

4.04 Following the NPCSC decision of December 2007, which has made clear that the CE may be elected by universal suffrage in 2017, we note that there is a view that as universal suffrage for the CE may be implemented in 2017, the Election Committee for 2012 will operate only once. Hence, no substantial change should be made to the Election Committee, and the number of members should be maintained at 800.

4.05 At the same time, there are views that the number of members of the Election Committee should be increased to 1000, 1200, 1600 and 1800.

4.06 Having regard to the principles as set out in paragraph 4.01 above and the views received previously from different sectors of the community on the number of members of the Election Committee, the HKSAR Government is of the view that consideration may be given to increasing the number of members of the Election Committee, but that the increase should not be too significant.

4.07 In this regard, the HKSAR Government is of the view that consideration may be given to increasing the number of the Election Committee members to not more than 1200. This range of increase can meet the requirement of gradual and orderly progress, provide more room and opportunities for members of the community to participate in the CE election, further enhance the representativeness of the Election Committee, and provide a basis for transforming the Election Committee into the nominating committee when universal suffrage for the CE is implemented in

2017.

- 4.08 The NPCSC decision has already made it clear that when universal suffrage for the CE is implemented in 2017, the nominating committee may be formed with reference to the current provisions regarding the Election Committee in Annex I to the Basic Law<sup>36</sup>. Hence, if the composition of the Election Committee for 2012 can be dealt with properly, this will facilitate this Election Committee being used as the basis for transforming into the nominating committee when universal suffrage is implemented in 2017.

## (II) The composition of the Election Committee

- 4.09 The current Election Committee is composed of four sectors, each comprising 200 members from different sectors. The proportion of the number of members for the four sectors is the same.
- 4.10 There are views among those which we have received previously that the number of members of the four sectors should remain the same, so as to comply with the principle of balanced participation.
- 4.11 There are also views that the number of members allocated to the four sectors should be adjusted.
- 4.12 There are also suggestions that adjustments should be made by increasing the proportion of the number of members in certain sectors or adding new subsectors (such as Women, Youth, SMEs), so as to tie in with the development of society.
- 4.13 The HKSAR Government considers that the four sectors of the existing Election Committee are broadly representative. In order to maintain the principle of balanced participation, consideration may be given to increasing the number of members of the four sectors of the 2012 Election Committee by the same proportion. For the new seats to be allocated to the fourth sector, most of them may be allocated to District Council members in order to enhance public participation in the Election Committee through the District

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<sup>36</sup> The NPCSC decision also stipulates that the nominating committee shall in accordance with democratic procedures nominate a certain number of candidates for the office of the CE, who is to be elected through universal suffrage by all registered electors of the HKSAR.

Council members who have a public mandate.

- 4.14 As to the extent of increase in the number of seats to be allocated to District Council members, we would wish to listen to the views of different sectors of the community.
- 4.15 As regards the representatives of District Councils in the Election Committee, the HKSAR Government is of the view that consideration may be given to having all such representatives elected from among elected District Council members, i.e. appointed District Council members will not take part in the election. This may address the concern of some LegCo Members and some members of the public, which should help narrow differences and forge consensus within the community.

(III) The electorate base of the Election Committee

- 4.16 There are views among those which we have received previously that the electorate base of the Election Committee should be expanded to enhance the representativeness of the Committee. Specific proposals include:
- (i) replacing “corporate votes” with “director’s / executive’s / association’s / individual votes”; and
  - (ii) increasing the proportion of District Council members in the Election Committee, so as to enhance the representativeness of the Election Committee through the participation of District Council members who have a public mandate.
- 4.17 The HKSAR Government is inclined not to adopt the method of replacing “corporate votes” with “director’s / executive’s / association’s / individual votes”. This is because the process would be too complicated, and involve the interests of many different sectors and individuals. It would not be easy for the community to reach consensus on this matter. Moreover, as the Election Committee for 2012 will operate only once, we consider that it would not be preferable to make substantial changes.
- 4.18 We consider that increasing the proportion of District Council members in the Election Committee can broaden the electorate

base of the Election Committee more effectively, and thus enhance the democratic elements of the Election Committee election.

(IV) The arrangements for nominating candidates for the office of the CE

- 4.19 There are views from among those which we have received previously that the current nomination threshold should be maintained at the ratio of one-eighth of the total membership of the Election Committee. This can ensure that the candidates have sufficient support.
- 4.20 There are also views that the nomination threshold should be lowered, so as to allow more potential candidates to secure sufficient nominations and to contest the election.
- 4.21 The HKSAR Government is of the view that consideration may be given to maintaining the nomination threshold at the existing level, i.e. at the ratio of one-eighth of the total membership of the Election Committee. The reason is that we consider that the existing requirement can already allow sufficient competition and ensure that candidates have sufficient support.
- 4.22 On the question of setting an upper limit on the number of subscribers, we note that there is no such requirement in Annex I to the Basic Law. We also consider that Election Committee members should not be unduly restrained from exercising their right to nominate candidates. There have not been many views from among those that we have received previously on whether an upper limit on the number of subscribers should be set. The HKSAR Government is of the view that consideration may be given to not setting such a limit at this stage.



(V) Political affiliation of the CE

4.23 There is no clear mainstream view from among those which we have received previously as to whether the requirement that the CE should not have any political affiliation should be changed. The HKSAR Government is of the view that consideration may be given to maintaining such a requirement at this stage.

## **Chapter Five : Method for Forming the Legislative Council in 2012 – Directions which may be Considered**

5.01 In considering the method for forming the LegCo in 2012, we should take into account the following principles:

- (i) it must comply with the relevant provisions of the NPCSC decision of 29 December 2007, including that appropriate amendments conforming to the principle of gradual and orderly progress may be made to the method for forming the LegCo in 2012, that the half-and-half ratio between members returned by FCs and members returned by GCs through direct elections and the procedures for voting on bills and motions in the LegCo shall remain unchanged;
- (ii) it must be consistent with the principles under the Basic Law, including 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 the HKSAR;
- (iii) it can take into account the views received from different sectors of the community during the previous and this public consultation exercises, respond to the aspiration of the community on constitutional development, and enhance the democratic elements of the election, so as to pave the way for implementing universal suffrage for the LegCo in 2020; and
- (iv) it can have the possibility of being accepted by the majority of the public, the LegCo, the CE and the Central Authorities.

5.02 Regarding the method for forming the LegCo in 2012, there are the following three key issues to be considered :

- (I) The number of seats in the LegCo;
- (II) The electorate base of the FCs; and
- (III) Whether the existing arrangement that LegCo seats may be returned by Hong Kong permanent residents who are not of

Chinese nationality or who have the right of abode in foreign countries should be adjusted.

5.03 The paragraphs below set out the directions which in the view of the HKSAR Government may be considered in respect of the key elements of the method for forming the LegCo in 2012.

(I) The number of seats in the LegCo

5.04 At present, there are 60 seats in the LegCo. On the basis that Hong Kong had a population of around 7 million in 2008, the seat-to-population ratio is about 1:116,800, which is relatively higher than those of overseas legislatures.

5.05 There is a general view from among those which we have received previously that the number of LegCo seats should be increased, for example, to 70 or 80. The reasons include:

- (i) this could widen the scope for political participation and enable more people of different backgrounds, experience and stance to participate in politics; and
- (ii) this could meet the operational requirements of LegCo.

5.06 The HKSAR Government is of the view that consideration may be given to increasing the number of LegCo seats from 60 to 70. Pursuant to the NPCSC decision of December 2007, there shall be, respectively, 35 seats returned by GCs through direct elections and 35 returned by FCs in the LegCo.

5.07 This arrangement can provide more room for members of the public to participate in politics, and allow more members to share the increasing workload of LegCo. On the basis that the population is projected to rise to about 7.2 million in 2012, if the number of seats is increased to 70, the seat-to-population ratio will be reduced to about 1:103,000.

## (II) The electorate base of the FCs

- 5.08 There are more views from among those which we have received previously that the electorate base of the FCs should be broadened, so as to enhance the representativeness and legitimacy of the FC elections.
- 5.09 There are views that, if the number of FC seats is to be increased, consideration may be given to adding some new sectors, such as women, youth, Chinese medicine practitioners and the Chinese medicine industry and SMEs.
- 5.10 There are also views that the number of seats allocated to the District Council FC should be increased. The main reason is that District Council members have a wider electorate base which can enhance the democratic elements and representativeness of the FCs.
- 5.11 Besides, there are views that “corporate votes” should be replaced with “director’s / executive’s / association’s / individual votes”.
- 5.12 The HKSAR Government is inclined not to adopt the method of replacing “corporate votes” with “director’s / executive’s / association’s / individual votes”. This is because the process would be too complicated and involve the interests of many different sectors and individuals. It would not be easy for the community to reach consensus on this matter.
- 5.13 In order to broaden the electorate base of the FCs, the HKSAR Government is of the view that consideration may be given to having all the five new FC seats and the existing District Council FC seat returned through election by elected District Council members from among themselves, i.e. appointed District Council members will not take part in the election. The reasons include:
- (i) currently, there are 28 FCs in the LegCo, which are composed of the industrial and commercial sector, the professions, the labour groups and different sectors of the community. There exists a sufficient level of representativeness, which is consistent with the principle of balanced participation;

- (ii) with no “traditional” FCs being created, this will help forge consensus within the community;
- (iii) elected District Council members are returned by more than three million voters through GC elections. They have a broader electorate base, which will be able to enhance the democratic elements and representativeness of the LegCo; and
- (iv) the District Council FC seats to be returned through election by elected District Council members from among themselves can further enhance the democratic elements of the FC elections, and can also address the concern of some LegCo Members and some members of the public. This should help narrow differences and forge consensus within the community.

5.14 As for the universal suffrage model for the LegCo in 2020, during the public consultation on the “Green Paper” launched in July 2007, the LegCo, various sectors of the community and the public held diverse views, and no mainstream view was formed. From now until 2020, there will be two LegCo elections to be held in 2012 and 2016. The community will have sufficient time to deal with the issue of universal suffrage for the LegCo.

(III) Whether the existing arrangement that LegCo seats may be returned by Hong Kong permanent residents who are not of Chinese nationality or who have the right of abode in foreign countries should be adjusted

5.15 There is a general view among those which we have received previously that the existing arrangement should be maintained (i.e. permanent residents of Hong Kong who are not of Chinese nationality or who have the right of abode in foreign countries may stand in the elections for 12 FC seats). It is considered that the arrangement may allow the LegCo to attract different talents and reflect Hong Kong’s inclusive and pluralistic culture.

5.16 The HKSAR Government is of the view that consideration may be given to maintaining the existing arrangement, so as to allow people who are not of Chinese nationality to continue to contribute

to Hong Kong, and to help maintain the image of Hong Kong as an international metropolis.

## **Chapter Six : Methods for Selecting the Chief Executive and for Forming the Legislative Council in 2012 – Relevant Issues to be Considered**

### **Method for selecting the CE in 2012**

1. The number of members of the Election Committee:
  - (a) Do you agree that the number of members of the Election Committee should be increased to not more than 1200?
2. The composition of the Election Committee:
  - (a) Should the proportion of members of the four sectors remain even or not?
  - (b) Do you agree that most of the new seats in the fourth sector should be allocated to District Council members?
  - (c) What should be the extent of increase in the number of seats to be allocated to District Council members? Do you agree that only elected District Council members should take part in the election?
3. The electorate base of the Election Committee:
  - (a) Do you agree that the method of replacing “corporate votes” with “director’s / executive’s / association’s / individual votes” should not be adopted?
  - (b) Do you agree that the proportion of District Council members in the Election Committee should be increased to broaden the electorate base?
4. The arrangements for nominating candidates for the office of the CE:
  - (a) Do you agree that the nomination threshold should be maintained at the existing level, i.e. at the ratio of one-eighth of the total membership of the Election Committee?

- (b) Do you agree that the arrangement of not setting an upper limit on the number of subscribers should be maintained?

5. Political affiliation of the CE:

- (a) Do you agree that the requirement that the CE should not have any political affiliation should be maintained ?

**Method for forming the LegCo in 2012**

6. The number of seats in the LegCo :

- (a) Do you agree that the number of seats should be increased from 60 to 70?

7. The electorate base of the FCs:

- (a) Do you agree that the method of replacing “corporate votes” with “director’s / executive’s / association’s / individual votes” should not be adopted?
- (b) Do you agree that all the five new FC seats and the existing District Council seat should be returned through election by elected District Council members from among themselves to broaden the electorate base of the FCs?

8. Nationality requirement of LegCo Members :

- (a) Do you agree that the existing arrangement of allowing Hong Kong permanent residents who are not of Chinese nationality or who have the right of abode in foreign countries to stand in the LegCo elections for 12 seats should remain unchanged?



Please send us your views by mail, facsimile or email on or before 19 February 2010:

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It is voluntary for any member of the public to supply his/her personal data upon providing views on this consultation document. Any personal data provided with a submission will only be used for the purpose of this public consultation exercise.

The submissions and personal data collected may be transferred to the relevant Government bureaux and departments for purposes directly related to this consultation exercise. The Government bureaux and departments receiving the data are bound by such purposes in their subsequent use of such data.

The names and views of individuals and organizations which put forth submissions in response to this consultation document (“senders”) may be published for public viewing after conclusion of the public consultation exercise. This Bureau may, either in discussion with others, whether privately or publicly, or in any subsequent report, attribute comments submitted in response to this consultation document. We will respect the wish of senders to remain anonymous and/or keep the views confidential in relation to all or part of a submission; but if no such wish is indicated, it will be assumed that the sender can be named and the submission can be published.

Any sender providing personal data to this Bureau in the submission will have the rights of access and correction with respect to such personal data. Any requests for data access or correction of personal data should be made in writing to:

Address : Assistant Secretary (8)  
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Constitutional and Mainland Affairs Bureau  
November 2009

**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 AND FOR FORMING THE LEGISLATIVE COUNCIL OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION IN THE YEAR 2012 AND ON ISSUES RELATING TO UNIVERSAL SUFFRAGE**

Adopted by the Standing Committee of the Tenth National People's Congress at its Thirty-first Session on 29 December 2007

The Standing Committee of the Tenth National People's Congress considered at its Thirty-first Session the "Report on the Public Consultation on Constitutional Development and on whether there is a need to amend the methods for selecting the Chief Executive of the Hong Kong Special Administrative Region and for forming the Legislative Council of the Hong Kong Special Administrative Region in 2012" submitted by Tsang Yam-kuen, the Chief Executive of the Hong Kong Special Administrative Region, on 12 December 2007. The Session is of the view that appropriate amendments may be made to the specific method for selecting the fourth Chief Executive and the specific method for forming the fifth term Legislative Council of the Hong Kong Special Administrative Region in the year 2012; that the election of the fifth Chief Executive of the Hong Kong Special Administrative Region in the year 2017 may be implemented by the method of universal suffrage; that after the Chief Executive is selected by universal suffrage, the election of the Legislative Council of the Hong Kong Special Administrative Region may be implemented by the method of electing all the members by universal suffrage. Pursuant to the relevant provisions of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China 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 hereby makes the following decision:

1. The election of the fourth Chief Executive of the Hong Kong Special Administrative Region in the year 2012 shall not be implemented by the method of universal suffrage. The election of the fifth term Legislative Council of the Hong Kong Special Administrative Region in the year 2012 shall not be implemented by the method of electing all the members by universal suffrage. The half-and-half ratio between members returned by functional constituencies and members returned by geographical constituencies through direct elections shall

remain unchanged. The procedures for voting on bills and motions in the Legislative Council shall remain unchanged. Subject to the aforementioned, appropriate amendments conforming to the principle of gradual and orderly progress may be made to the specific method for selecting the fourth Chief Executive of the Hong Kong Special Administrative Region in the year 2012 and the specific method for forming the fifth term Legislative Council of the Hong Kong Special Administrative Region in the year 2012 in accordance with the provisions of Articles 45 and 68, and those 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.

2. At an appropriate time prior to the selection of the Chief Executive of the Hong Kong Special Administrative Region by universal suffrage, the Chief Executive shall make a report to the Standing Committee of the National People's Congress as regards the issue of amending the method for selecting the Chief Executive in accordance with the relevant provisions of the Hong Kong 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"; a determination thereon shall be made by the Standing Committee of the National People's Congress. The bills on the amendments to the method for selecting the Chief Executive and the proposed amendments to such bills shall be introduced by the Government of the Hong Kong Special Administrative Region to the Legislative Council; such 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.
3. At an appropriate time prior to the election of all the members of the Legislative Council of the Hong Kong Special Administrative Region by universal suffrage, the Chief Executive shall make a report to the Standing Committee of the National People's Congress as regards the issue of amending the method for forming the Legislative Council and the issue of whether any corresponding amendment should be made to the procedures for voting on bills and motions in the Legislative Council in accordance with the relevant provisions of the Hong Kong 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"; a determination thereon shall be made by the Standing Committee of the National People's Congress. The bills on the amendments to the method for forming the Legislative Council and its procedures for voting on bills and motions and the proposed amendments to such bills shall be introduced by the Government of the Hong Kong Special Administrative Region to the Legislative Council; such 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.

4. If no amendment is made to the method for selecting the Chief Executive, the method for forming the Legislative Council or its procedures for voting on bills and motions in accordance with the legal procedures, the method for selecting the Chief Executive used for the preceding term shall continue to apply, and the method for forming the Legislative Council and the procedures for voting on bills and motions used for the preceding term shall continue to apply.

The Session is of the view that in accordance with the provisions of Article 45 of the Hong Kong Basic Law, in selecting the Chief Executive of the Hong Kong Special Administrative Region by the method of universal suffrage, a broadly representative nominating committee shall be formed. The nominating committee may be formed with reference to the current provisions regarding the Election Committee in Annex I to the Hong Kong Basic Law. The nominating committee shall in accordance with democratic procedures nominate a certain number of candidates for the office of the Chief Executive, who is to be elected through universal suffrage by all registered electors of the Hong Kong Special Administrative Region, and to be appointed by the Central People's Government.

The Session is of the view that with the joint efforts of the Government of the Hong Kong Special Administrative Region and the people of Hong Kong, the democratic system of the Hong Kong Special Administrative Region will definitely make progress continuously, and that the aim of the selection of the Chief Executive and the election of all the members of the Legislative Council by universal suffrage will be realized in accordance with the Hong Kong Basic Law and this Decision.

**The Voters for Election Committee Subsectors  
(2009 Final Register)**

Name of Subsectors		No. of Registered Voters		
		Bodies	Individuals	Total
<b>First Sector</b>				
1	Catering	577	7,407	7,984
2	Commercial (First)	993		993
3	Commercial (Second)	733	1,043	1,776
4	Employers' Federation of Hong Kong	105		105
5	Finance	129		129
6	Financial Services	578		578
7	Hong Kong Chinese Enterprises Association	306	8	314
8	Hotel	101		101
9	Import and Export	861	608	1,469
10	Industrial (First)	706	0	706
11	Industrial (Second)	798		798
12	Insurance	139		139
13	Real Estate and Construction	440	276	716
14	Textiles and Garment	3,578	130	3,708
15	Tourism	1,127		1,127
16	Transport	178		178
17	Wholesale and Retail	1,819	4,154	5,973
<b><i>Sub-total</i></b>		<b><i>13,168</i></b>	<b><i>13,626</i></b>	<b><i>26,794</i></b>

Name of Subsectors		No. of Registered Voters		
		Bodies	Individuals	Total
<b>Second Sector</b>				
1	Accountancy		22,086	22,086
2	Architectural, Surveying and Planning		6,115	6,115
3	Chinese Medicine		4,056	4,056
4	Education		81,025	81,025
5	Engineering		8,261	8,261
6	Health Services		36,468	36,468
7	Higher Education		7,887	7,887
8	Information Technology	360	5,381	5,741
9	Legal		6,020	6,020
10	Medical		10,491	10,491
<i>Sub-total</i>		<b>360</b>	<b>187,790</b>	<b>188,150</b>
<b>Third Sector</b>				
1	Agriculture and Fisheries	160		160
2	Labour	597		597
3	Social Welfare	249	12,291	12,540
4	Sports, Performing Arts, Culture and Publication	2,052	155	2,207
<i>Sub-total</i>		<b>3,058</b>	<b>12,446</b>	<b>15,504</b>
<b>Fourth Sector</b>				
1	Chinese People's Political Consultative Conference		117	117
2	Heung Yee Kuk		151	151
3	Hong Kong and Kowloon District Councils		204	204
4	New Territories District Councils		220	220
<i>Sub-total</i>			<b>692</b>	<b>692</b>
<b>TOTAL</b>		<b>16,586</b>	<b>214,554</b>	<b>231,140</b>

**The Composition of the Election Committee**

**First Sector (Industrial, commercial and financial sectors)**

	<u>Subsector</u>	<u>Number of members</u>
1.	Catering	11
2.	Commercial (First)	12
3.	Commercial (Second)	12
4.	Employers' Federation of Hong Kong	11
5.	Finance	12
6.	Financial Services	12
7.	Hong Kong Chinese Enterprises Association	11
8.	Hotel	11
9.	Import and Export	12
10.	Industrial (First)	12
11.	Industrial (Second)	12
12.	Insurance	12
13.	Real Estate and Construction	12
14.	Textiles and Garment	12
15.	Tourism	12
16.	Transport	12
17.	Wholesale and Retail	12



## **Second Sector (The professions)**

	<u>Subsector</u>	<u>Number of members</u>
18.	Accountancy	20
19.	Architectural, Surveying and Planning	20
20.	Chinese medicine	20
21.	Education	20
22.	Engineering	20
23.	Health Services	20
24.	Higher Education	20
25.	Information Technology	20
26.	Legal	20
27.	Medical	20

## **Third Sector (Labour, social services, religious and other sectors)**

	<u>Subsector</u>	<u>Number of members</u>
28.	Agriculture and Fisheries	40
29.	Labour	40
30.	Religious*	40
31.	Social Welfare	40
32.	Sports, Performing Arts, Culture and Publication	40

**Fourth Sector (Members of the Legislative Council, representatives of district-based organisations, 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)**

	<u>Subsector</u>	<u>Number of members</u>
33.	National People’s Congress	36
34.	Legislative Council	60
35.	Chinese People’s Political Consultative Conference	41
36.	Heung Yee Kuk	21
37.	Hong Kong and Kowloon District Councils	21
38.	New Territories District Councils	21

\* The number of members to be nominated by each of the six designated bodies of the religious subsector is as follows:

	<u>Number of members</u>
• Catholic Diocese of Hong Kong	(7)
• Chinese Muslim Cultural and Fraternal Association	(6)
• Hong Kong Christian Council	(7)
• The Hong Kong Taoist Association	(6)
• The Confucian Academy	(7)
• The Hong Kong Buddhist Association	(7)

**The 28 Functional Constituencies provided for  
under the Legislative Council Ordinance**

- |   |  |
|---|--|
| (1) Heung Yee Kuk                           | (15) Tourism   |
| (2) Agriculture & Fisheries                 | (16) Commercial (First)                                |
| (3) Insurance                               | (17) Commercial (Second)                               |
| (4) Transport                               | (18) Industrial (First)                                |
| (5) Education                               | (19) Industrial (Second)                               |
| (6) Legal                                   | (20) Finance   |
| (7) Accountancy                             | (21) Financial Services                                |
| (8) Medical                                 | (22) Sports, Performing Arts,<br>Culture & Publication |
| (9) Health Services                         | (23) Import and Export                                 |
| (10) Engineering                            | (24) Textiles and Garment                              |
| (11) Architectural, Surveying<br>& Planning | (25) Wholesale and Retail                              |
| (12) Labour                                 | (26) Information Technology                            |
| (13) Social Welfare                         | (27) Catering  |
| (14) Real Estate and<br>Construction        | (28) District Council                                  |

**The Electors for Functional Constituencies  
(2009 Final Register)**

Name of Functional Constituencies		No. of Registered Electors		
		Bodies	Individuals	Total
1	Heung Yee Kuk		155	155
2	Agriculture and Fisheries	160		160
3	Insurance	141		141
4	Transport	178		178
5	Education		88,964	88,964
6	Legal		6,022	6,022
7	Accountancy		22,089	22,089
8	Medical		10,493	10,493
9	Health Services		36,491	36,491
10	Engineering		8,261	8,261
11	Architectural, Surveying and Planning		6,117	6,117
12	Labour	597		597
13	Social Welfare		12,293	12,293
14	Real Estate and Construction	441	286	727
15	Tourism	1,236		1,236
16	Commercial (First)	1,040		1,040
17	Commercial (Second)	748	1,066	1,814
18	Industrial (First)	715	0	715
19	Industrial (Second)	805		805
20	Finance	132		132
21	Financial Services	578		578
22	Sports, Performing Arts, Culture and Publication	2,060	155	2,215
23	Import and Export	875	619	1,494
24	Textiles and Garment	3,579	130	3,709
25	Wholesale and Retail	1,829	4,168	5,997
26	Information Technology	364	5,383	5,747
27	Catering	582	7,414	7,996
28	District Council		425	425
<b>TOTAL</b>		<b>16,060</b>	<b>210,531</b>	<b>226,591</b>