

Legislative Council Panel on Constitutional Affairs

The Third Report of the Constitutional Development Task Force : Areas which may be Considered for Amendment in respect of the Methods for Selecting the Chief Executive in 2007 and for Forming the Legislative Council in 2008

Introduction

This paper briefs Members on the Third Report of the Constitutional Development Task Force (“the Task Force”) published on 11 May 2004. The Report sets out the areas which may be considered for amendment in respect of the methods for selecting the Chief Executive in 2007 and for forming the Legislative Council in 2008.

Background

2. At its Ninth Session on 25 and 26 April 2004, the Standing Committee of the National People’s Congress (“NPCSC”) considered the report submitted by the Chief Executive on whether there is a need to amend the methods for selecting the Chief Executive of the Hong Kong Special Administrative Region in 2007 and for forming the Legislative Council of the Hong Kong Special Administrative Region in 2008. On 26 April, in accordance with the relevant provisions of the Basic Law and “The Interpretation by the Standing Committee of the National People’s Congress of Article 7 of Annex I and Article III of Annex II to the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China” (“the Interpretation”) adopted by the NPCSC on 6 April, the NPCSC adopted the “Decision of the Standing Committee of the National People’s Congress on issues relating to the methods for selecting the Chief Executive of the Hong Kong Special Administrative Region in the year 2007 and for forming the Legislative Council of the Hong Kong Special Administrative Region in the year 2008” (“the Decision”). The main provisions are :

1. The election of the third Chief Executive of the Hong Kong Special Administrative Region (“HKSAR”) to be held in the year 2007 shall not be by means of universal suffrage. The election of the Legislative Council of the HKSAR in the fourth term in the year 2008 shall not

be by means of an election of all the members by universal suffrage. The ratio between members returned by functional constituencies and members returned by geographical constituencies through direct elections, who shall respectively occupy half of the seats, is to remain unchanged. The procedures for voting on bills and motions in the Legislative Council are to remain unchanged.

2. Subject to Article 1 of this Decision not being contravened, appropriate amendments that conform to the principle of gradual and orderly progress may be made to the specific method for selecting the third Chief Executive of the HKSAR in the year 2007 and the specific method for forming the Legislative Council of the HKSAR in the fourth term in the year 2008 according to the provisions of Articles 45 and 68 of the Hong Kong Basic Law and the provisions of Article 7 of Annex I and Article III of Annex II to the Hong Kong Basic Law.

3. The Decision of the NPCSC has initiated formally the amendment mechanism in the Annexes to the Basic Law in respect of the methods for selecting the Chief Executive in 2007 and for forming the Legislative Council in 2008. The Decision has also clarified the scope for amendments.

The Third Report of the Task Force

4. Accordingly, the Task Force has now embarked on the next stage of its work to encourage the different sectors of the community to put forth their views and specific proposals in respect of the methods for selecting the Chief Executive in 2007 and for forming the Legislative Council in 2008, in accordance with the relevant provisions of the Basic Law, as well as the Interpretation and Decision of the NPCSC. To provide reference to different sectors of the community when formulating and discussing specific proposals, the Task Force has prepared the Third Report, setting out the areas which may be considered for amendment in respect of the methods for selecting the Chief Executive in 2007 and for forming the Legislative Council in 2008. These areas are briefly set out below :

(I) Areas which may be considered for amendment in respect of the method for selecting the Chief Executive in 2007

Areas which may be Considered for Amendment	Existing Provisions
The Number of Members of the Election Committee	The Election Committee shall be composed of 800 members.
The Composition of the Election Committee	<p>The Election Committee shall be composed of members from the following four sectors :</p> <ul style="list-style-type: none"> ● 200 members from the industrial, commercial and financial sectors ● 200 members from the professions ● 200 members from the labour, social services, religious and other sectors ● 200 members from members of the Legislative Council, representatives of district-based organizations, Hong Kong deputies to the National People's Congress, and representatives of Hong Kong members of the National Committee of the Chinese People's Political Consultative Conference <p>The above four sectors are constituted by a total of 38 subsectors.</p>
The Number of Members of the Election Committee Required for Nominating Candidates for the Office of Chief Executive	Candidates for the office of Chief Executive may be nominated jointly by not less than 100 members of the Election Committee. Each member may nominate only one candidate.

Areas which may be Considered for Amendment	Existing Provisions
The Delineation and Size of the Electorate of the Election Committee	<p>The four sectors of the Election Committee are constituted by a total of 38 subsectors. The relevant compositions are specified in the Chief Executive Election Ordinance.</p> <p>At present, the Election Committee is constituted by election by about 163 500 voters.</p>

(II) Areas which may be considered for amendment in respect of the method for forming the Legislative Council in 2008

Areas which may be Considered for Amendment	Existing Provisions
The Number of Seats in the Legislative Council	The Legislative Council shall be composed of 60 members in each term.
The Number of Seats Returned by Geographical Constituencies through Direct Elections	<p>For the third term Legislative Council, 30 seats are to be returned by geographical constituencies through direct elections, and there are to be five geographical constituencies. In general, the 30 seats are distributed among the constituencies in accordance with their population distribution. Details are as follows :</p> <p>(a) the Hong Kong Island geographical constituency to return 6 members;</p> <p>(b) the Kowloon East geographical constituency to return 5 members;</p> <p>(c) the Kowloon West</p>

Areas which may be Considered for Amendment	Existing Provisions
	<p>geographical constituency to return 4 members;</p> <p>(d) the New Territories East geographical constituency to return 7 members; and</p> <p>(e) the New Territories West geographical constituency to return 8 members.</p> <p>(According to the Decision, if the number of seats returned by geographical constituencies through direct elections is changed, the number of functional constituency seats must also be changed at the same time, so as to meet the requirement that these two categories of seat shall be equal in number.)</p>
<p>The Number of Seats Returned by Functional Constituencies</p>	<p>For the third term Legislative Council, 30 seats are to be returned through functional constituency elections.</p> <p>(According to the Decision, if the number of functional constituency seats is changed, the number of seats returned by geographical constituencies through direct elections must also be changed at the same time, so as to meet the requirement that these two categories of seat shall be equal in number.)</p>
<p>The Delineation and Size of the Electorate of Legislative Council Functional Constituencies</p>	<p>The Legislative Council Ordinance provides for the establishment of the following 28 functional constituencies :</p>

Areas which may be Considered for Amendment	Existing Provisions
	<p>(1) Heung Yee Kuk</p> <p>(2) Agriculture and Fisheries</p> <p>(3) Insurance</p> <p>(4) Transport</p> <p>(5) Education</p> <p>(6) Legal</p> <p>(7) Accountancy</p> <p>(8) Medical</p> <p>(9) Health Services</p> <p>(10) Engineering</p> <p>(11) Architectural, Surveying and Planning</p> <p>(12) Labour</p> <p>(13) Social Welfare</p> <p>(14) Real Estate and Construction</p> <p>(15) Tourism</p> <p>(16) Commercial (First)</p> <p>(17) Commercial (Second)</p> <p>(18) Industrial (First)</p> <p>(19) Industrial (Second)</p> <p>(20) Finance</p> <p>(21) Financial Services</p> <p>(22) Sports, Performing Arts, Culture and Publication</p> <p>(23) Import and Export</p> <p>(24) Textiles and Garment</p> <p>(25) Wholesale and Retail</p> <p>(26) Information Technology</p> <p>(27) Catering</p> <p>(28) District Council</p> <p>Except for the labour functional constituency which returns three members, all functional constituencies return one Legislative Council Member each.</p>

Areas which may be Considered for Amendment	Existing Provisions
	At present, there are about 160,000 electors for functional constituencies.
Provisions regarding Nationality of Legislative Council Members ^{Note}	<p>In connection with the provisions of the Basic Law, the Legislative Council Ordinance allows Hong Kong permanent residents who are not of Chinese nationality or who have the right of abode in foreign countries to participate in the Legislative Council elections through the following 12 functional constituencies (which constitute 20 percent of the Legislative Council seats) :</p> <ol style="list-style-type: none"> (1) the legal functional constituency; (2) the accountancy functional constituency; (3) the engineering functional constituency; (4) the architectural, surveying and planning functional constituency; (5) the real estate and construction functional constituency; (6) the tourism functional constituency; (7) the commercial (first) functional constituency; (8) the industrial (first) functional constituency; (9) the finance functional

^{Note} If the total number of Legislative Council seats is increased, the seats available for those with right of abode in foreign countries to stand may also be increased correspondingly in connection with the 20% provision in Article 67 of the Basic Law.

Areas which may be Considered for Amendment	Existing Provisions
	constituency; (10) the financial services functional constituency; (11) the import and export functional constituency; (12) the insurance functional constituency.

5. On 11 May, the Task Force sent copies of the Third Report to all Members of the Legislative Council. Copies of the Report will be made available to the public through the District Offices and the website on constitutional development (www.cab-review.gov.hk).

Invitation to the Community to Put Forward Views and Specific Proposals

6. Upon the publication of the Third Report, the Task Force will start to widely collect, from different sectors of the community, views and specific proposals as regards how the methods for selecting the Chief Executive in 2007 and for forming the Legislative Council in 2008 may be amended. To provide the community with sufficient time to formulate and put forward their views and specific proposals, about three months (i.e. up until 31 August) will be set aside for collecting views. During the consultation period, it is our plan that :

- (a) a series of seminars will be organised where members of different sectors of the community will be invited to participate to discuss the content of the Third Report and to put forth their views on it. It is envisaged that the first seminar will be held before the end of May; and
- (b) if any political groups or other organisations, and individuals put forth their written submissions and specific proposals to the Task Force, the Task Force may, upon their request and as necessary, arrange to meet with the relevant groups, organisations or individuals.

7. To facilitate public discussion, the Task Force has sought to set out in the Third Report the major provisions of the Basic Law and local legislation regarding the methods for selecting the Chief Executive and for forming the Legislative Council. In future, after consensus has been reached on specific proposals, implementation will follow respectively the amendment mechanism in Annexes I and II to the Basic Law and local legislative procedures.

8. Apart from the areas which may be considered for amendment as set out in the Third Report, the Task Force also welcomes views and specific proposals from different sectors of the community on other areas regarding the methods for selecting the Chief Executive and for forming the Legislative Council.

Conclusion

9. We would welcome views from Members of the Panel in response to the Third Report of the Task Force.

Constitutional Affairs Bureau
11 May 2004