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## Chapter One : Foreword

1.01 The HKSAR Government published on 18 November last year the “Consultation Document on the Methods for Selecting the Chief Executive and for Forming the Legislative Council in 2012” (“the consultation document”), setting out the directions which may be considered regarding the key elements of the two electoral methods for 2012, and launched a three-month public consultation. The consultation period ended on 19 February this year.

1.02 The consultation work relating to the two electoral methods for 2012 is carried out based on 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”) adopted by the Standing Committee of the National People’s Congress (“NPCSC”) on 29 December 2007. The NPCSC decision makes clear the universal suffrage timetable for Hong Kong, i.e. the Chief Executive (“CE”) may be selected by universal suffrage in 2017, and that after the CE is selected by universal suffrage, all the members of the Legislative Council (“LegCo”) may be elected by universal suffrage. The NPCSC decision also stipulates that the election of the fourth CE in 2012 and the election of the fifth term LegCo in 2012 shall not be implemented by universal suffrage and that the half-and-half ratio between members returned by functional constituencies (“FCs”) and members returned by geographical constituencies (“GCs”) through direct elections shall remain unchanged in 2012. On the premise that these requirements are complied with, appropriate amendments conforming to the principle of gradual and orderly progress may be made to the two electoral methods.

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

1.03 In attaining universal suffrage, the aim of the current-term HKSAR Government is to further democratize the electoral systems 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.

- 1.04 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:

### **Method for Selecting the Chief Executive in 2012**

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

- (a) To increase the number of Election Committee members from the current 800 to not more than 1200, so as to meet the requirement of gradual and orderly progress, provide more room for members of the community to participate in the CE election and further enhance the representativeness of the Election Committee. This will also help transform the Election Committee into the nominating committee when universal suffrage for the CE is implemented in 2017.

#### (II) The composition of the Election Committee

- (b) In accordance with the principle of balanced participation, to increase the number of members of the four sectors of the 2012 Election Committee by the same proportion, i.e. to add 100 members for each sector.
- (c) For the fourth sector (i.e. the LegCo, District Councils, Heung Yee Kuk, Hong Kong deputies to the National People's Congress and Hong Kong members of the National Committee of the Chinese People's Political Consultative Conference), most of the 100 new seats may be allocated to District Council members in order to enhance the democratic elements of the Election Committee through the District Council members who have a public mandate.
- (d) The representatives of District Councils in the Election Committee may be elected from among elected District Council members, i.e. appointed District Council members will not take part in the election.

(III) The electorate base of the Election Committee

- (e) Through increasing the proportion of District Council members in the Election Committee, the electorate base of the Election Committee can be broadened more effectively, and thereby, enhancing the democratic elements of the Election Committee.

(IV) The arrangements for nominating candidates for the office of the Chief Executive

- (f) To maintain the nomination threshold at the existing level, i.e. at the ratio of one-eighth of the total membership of the Election Committee. This is because the existing requirement can already allow sufficient competition and ensure that candidates have sufficient support.

(V) Political affiliation of the Chief Executive

- (g) To maintain the requirement that the CE should not have any political affiliation at this stage.

**Method for Forming the Legislative Council in 2012**

(I) The number of seats in the Legislative Council

- (a) To increase the number of LegCo seats from 60 to 70. This can broaden the scope of political participation, and meet the operational requirements of LegCo.

(II) The electorate base of the functional constituencies

- (b) All the five new FC seats and the existing District Council FC seat to be returned through election by elected District Council members from among themselves, i.e. appointed District Council members will not take part in the election.
- (c) With no “traditional” FCs being created, this will help forge consensus within the community. The increased participation of elected District Council members, who have a broader electorate base, will be able to enhance the democratic

elements of the FC elections.

(III) Nationality requirement of Legislative Council Members

(d) To maintain the existing arrangement that Hong Kong permanent residents 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.

1.05 Overall speaking, the directions put forth by the HKSAR Government in the consultation document regarding the two elections in 2012 will inject new democratic elements into the electoral arrangements:

(a) We have already attained the universal suffrage timetable in 2007.

(b) Under the requirement of the NPCSC decision that the half-and-half ratio between members returned by FCs and members returned by GCs through direct elections shall remain unchanged in 2012, we have abided by the principle of not creating new “traditional” FCs. Increasing the number of seats to be returned through election from among elected District Council members can enhance the democratic elements of the LegCo.

(c) Our proposal that consideration may be given to having all District Council seats in the Election Committee and the LegCo elected from among elected District Council members in 2012 can further enhance the democratic elements of the elections.

1.06 During the three-month public consultation period, the HKSAR Government has listened extensively through a variety of channels to the views of the public, organizations and individuals from different sectors, the LegCo and District Councils on how the two electoral methods for 2012 should be amended.

1.07 After the end of the consultation period, we have summarized and consolidated the views received during the consultation period, including the results of the opinion polls conducted by various

academic, non-governmental and media organizations<sup>1</sup> during the consultation period<sup>2</sup>. We have also analyzed the written submissions put forth by political parties/groups and Members<sup>3</sup> of the LegCo, as well as those by individual organizations and members of the public. Reference has also been made to the relevant motions passed and views put forth by the 18 District Councils.

1.08 After considering fully the views received together with the proposals received in the past, the HKSAR Government has formulated a package of proposals for the methods for selecting the CE and for forming the LegCo in 2012 (“the proposed package”). The proposed package is formulated based on two main objectives:

- (a) the democratic elements of the two elections in 2012 should be enhanced in accordance with the Basic Law and the NPCSC decision of 2007 and in compliance with the principle of gradual and orderly progress;
- (b) the proposed package can have the possibility of being supported by the majority of the public, the LegCo, the CE and the Central Authorities, so that Hong Kong’s constitutional development can be rolled forward.

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<sup>1</sup> Including the results of the following polls –

- (a) The opinion polls conducted from 22 – 30 December 2009 and 28 January – 4 February 2010 by Hong Kong Institute of Asia-Pacific Studies, the Chinese University of Hong Kong (please refer to pages 50-68 of Appendix II);
- (b) The opinion poll conducted from 18-21 January 2010 jointly by the Public Opinion Programme at the University of Hong Kong and the Radio Television Hong Kong (please refer to pages 69-70 of Appendix II);
- (c) The opinion poll conducted from 29 January – 3 February 2010 by the Bauhinia Foundation Research Centre (please refer to pages 73-103 of Appendix II);
- (d) The opinion poll conducted from 29 January – 2 February 2010 jointly by the Public Opinion Programme at the University of Hong Kong and now News Channel (please refer to pages 45-49 of Appendix II);
- (e) The opinion poll conducted from 7-11 February 2010 by the Hong Kong Research Association (please refer to pages 4-5 of Appendix II); and
- (f) The opinion poll conducted from 17-20 February 2010 by the One Country Two Systems Research Institute (please refer to pages 104-111 of Appendix II).

<sup>2</sup> For the opinion polls of the same series conducted by the same organization, we have made reference to mainly the results of the last round conducted within the consultation period. For the opinion poll conducted by the One Country Two Systems Research Institute, we note that the last day on which the poll was conducted falls outside the consultation period. However, given that the results of the poll are of referential value, we have covered them in this document.

<sup>3</sup> Including the organizations set up on the initiative of political parties/groups and Members of the LegCo.

- 1.09 The proposed package is put forth by the HKSAR Government after extensive consultation and careful consideration. Our priority task now is to strive to gain the support of the community and the LegCo for this proposed package, and to endeavour to obtain the LegCo's endorsement of the relevant amendments to Annexes I and II to the Basic Law. However, before the proposed package is put to vote at the LegCo, on the basis of the NPCSC decision, we will continue to listen to the views of members of the public and LegCo Members. We hope that the amendments to Annexes I and II to the Basic Law that are put to vote at the LegCo eventually can be passed by a two-thirds majority of all the members of the LegCo, with the support of the majority of the public.
- 1.10 As for the views relating to universal suffrage received during the consultation period, we have also summarized and consolidated such views. This will serve as reference for the HKSAR Government for dealing with the issue of universal suffrage for the CE and the LegCo in future.



## **Chapter Two : Public Consultation on the Methods for Selecting the Chief Executive and for Forming the Legislative Council in 2012**

- 2.01 Following the release of the consultation document, the Constitutional and Mainland Affairs Bureau immediately embarked on the public consultation on the methods for selecting the CE and for forming the LegCo in 2012. The public consultation on the consultation document lasted about three months and concluded on 19 February 2010.
- 2.02 During the public consultation period, we consulted the community widely and systematically through a variety of channels to gauge feedback on the consultation document from the LegCo, District Councils, organizations and individuals from different sectors of society, as well as members of the public.
- 2.03 We appealed to organizations and individuals from various sectors of society to put forth, by post, facsimile or e-mail, their views on the key issues for consideration and other related issues set out in the consultation document. During the consultation period, we have received about 47200 written submissions, and more than 1.6 million signatures.
- 2.04 To promote further discussions on the two electoral methods for 2012 among various sectors of the community, the Chief Secretary for Administration, the Secretary/Under Secretary for Constitutional and Mainland Affairs and the Secretary/Under Secretary for Home Affairs attended four regional forums in the New Territories West, Kowloon, Hong Kong Island, and the New Territories East on 4, 19, 21 and 25 January 2010 respectively to listen to the views of district personalities direct. A total of more than 850 district personalities, including members of District Councils, members of Area Committees, representatives of owners' corporations/mutual aid committees, students, professionals, the middle class and representatives of local organizations, etc. participated in these forums.
- 2.05 Moreover, the Secretary for Constitutional and Mainland Affairs and the Under Secretary for Home Affairs attended two open forums held on 11 and 15 January 2010 respectively, which were

organized for members of the public to join and to express their opinions. About 380 participants took part in the two forums. The video footage of the open forums has been uploaded onto the website of the “Package of Proposals for the Methods for Selecting the Chief Executive and for Forming the Legislative Council in 2012” ([www.cmab-cd2012.gov.hk](http://www.cmab-cd2012.gov.hk)).

- 2.06 The Secretary for Constitutional and Mainland Affairs also attended three public hearings organized by the LegCo Constitutional Affairs Panel to listen to the views of over 150 organizations from different sectors and individuals on the methods for selecting the CE and for forming the LegCo in 2012.
- 2.07 The Chief Secretary for Administration, the Secretary/Under Secretary for Constitutional and Mainland Affairs, and the relevant Bureau Secretaries/Under Secretaries also attended forums and meetings organized by organizations of different sectors to listen to their views on the consultation document. In addition, the Government also invited political parties, alliances formed on the initiative of different political parties/groups and academics to meetings to listen to their views. A total of more than 70 relevant forums and meetings had been held.
- 2.08 Moreover, the Secretary for Constitutional and Mainland Affairs attended the special meeting of the LegCo Constitutional Affairs Panel on 26 November 2009 and the meetings of 18 District Councils<sup>4</sup> during the period between December 2009 and January 2010 to listen to the views of LegCo Members and District Council members on the consultation document direct.
- 2.09 Apart from engaging proactively different sectors of the community and members of the public to listen to their views, we have also monitored closely the opinion polls conducted by various academic, non-governmental and media organizations on the consultation document, so as to have an even better grasp of public opinion.
- 2.10 The full text of the views gathered during the consultation period regarding the methods for selecting the CE and for forming LegCo in 2012 are published in the following appendices:

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<sup>4</sup> The Tuen Mun District Council meeting on 21 January 2010 was attended by the Under Secretary on behalf of the Secretary.

- Appendix I: Written submissions put forth by political parties/groups and Members of the LegCo & extracts of meeting notes of the 18 District Councils
- Appendix II: Opinion polls conducted by various academic, non-governmental and media organizations on the methods for selecting the CE and for forming the LegCo in 2012
- Appendix III: Written submissions put forth by members of the public and organizations through various means, including those sent by post, email and facsimile

The appendices can be viewed at the public enquiry service centers of District Offices or the website of the “Package of Proposals for the Methods for Selecting the Chief Executive and for Forming the Legislative Council in 2012”.

## **Chapter Three: Views Received on the Methods for Selecting the Chief Executive and for Forming the Legislative Council in 2012**

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

- 3.01 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.
- 3.02 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 have set out the following four key issues in the consultation document:
- (I) The number of members and composition of the Election Committee;
  - (II) The electorate base of the Election Committee;
  - (III) The arrangements for nominating candidates for the office of the Chief Executive; and
  - (IV) Political affiliation of the Chief Executive.
- 3.03 The paragraphs below summarize the results of the relevant opinion polls, the written proposals put forth by political parties/groups and Members of the LegCo, as well as the written submissions put forth by organizations and individuals.

(I) The number of members and composition of the Election Committee

3.04 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.

3.05 The Election Committee is composed of 800 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 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 200

3.06 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.

*Opinion Polls*

3.07 Among the opinion polls conducted during the consultation period, those conducted respectively by Hong Kong Institute of Asia-Pacific Studies of the Chinese University<sup>5</sup>, Bauhinia

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<sup>5</sup> According to the poll conducted by Hong Kong Institute of Asia-Pacific Studies of the Chinese University between 28 January and 4 February 2010:

- (a) about 56% of the respondents agree/strongly agree that the number of the Election Committee members should be increased from the current 800 to 1200 (with 100 members added to each of the existing four sectors);
- (b) about 28% disagree/strongly disagree;
- (c) about 16% do not know/find it difficult to tell.

Foundation Research Centre<sup>6</sup>, Hong Kong Research Association<sup>7</sup> and One Country Two Systems Research Institute<sup>8</sup> indicate that, about 60% of the respondents agree that the number of the Election Committee members should be increased from the current 800 to 1200, with 100 members added to each of the existing four sectors.

### *Legislative Council*

3.08 Various political parties/groups and Members of the LegCo have put forth the following relevant proposals:

(a) Democratic Alliance for the Betterment and Progress of Hong Kong (“DAB”) agrees that the number of the Election

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<sup>6</sup> According to the poll conducted by Bauhinia Foundation Research Centre between 29 January and 3 February 2010:

- (a) about 65% of the respondents agree/strongly agree that the number of the Election Committee members should be increased from 800 to 1200 for the CE election in 2012;
- (b) about 25% disagree/strongly disagree;
- (c) 10% do not know/find it difficult to tell.

Among those who agree that the number of the Election Committee members should be increased to 1200:

- (a) about 64% of the respondents agree/strongly agree that the 400 new seats should be allocated evenly among the existing four sectors;
- (b) about 27% disagree/strongly disagree;
- (c) about 9% do not know/find it difficult to tell.

<sup>7</sup> According to the poll conducted by Hong Kong Research Association between 7 and 11 February 2010:

- (a) 62% of the respondents agree that the number of members of the 2012 Election Committee should be increased from 800 to 1200 and 100 members should be added to each sector;
- (b) 29% disagree;
- (c) 9% have no strong view/have no comment.

<sup>8</sup> According to the poll conducted by One Country Two Systems Research Institute between 17 and 20 February 2010:

- (a) about 68% of the respondents agree that the number of the Election Committee members should be increased from 800 to 1200 for the CE election in 2012;
- (b) about 19% disagree;
- (c) about 13% have no strong view/do not know.

Moreover,

- (a) about 63% of the respondents agree that the 400 new members of the Election Committee should be allocated to the four sectors evenly, i.e. to add 100 seats to each sector;
- (b) about 24% disagree;
- (c) about 13% have no strong view/do not know.

Committee members should be increased from 800 to 1200. DAB has no objection to the view that the number of members can be increased further, but considers that the smooth transformation of the Election Committee into the nominating committee when universal suffrage for the CE is implemented in 2017 should be taken into account. DAB also agrees that the number of members of the four sectors should be increased by the same proportion<sup>9</sup>.

- (b) Constitutional Reform Synergy<sup>10</sup> agrees that the number of the Election Committee members should be increased from 800 to 1200, and that 100 members should be added to each of the four sectors. This can help enhance the representativeness and democratic elements of the Election Committee, and can maintain the principles of balanced participation and gradual and orderly progress. This can also facilitate the transformation of the Election Committee into the nominating committee when universal suffrage for the CE is implemented in 2017.
- (c) Hong Kong Federation of Trade Unions (“FTU”) proposes that the number of the Election Committee members should be increased to not more than 1200. This can attract more people who represent different sectors of the community to take part in the CE election, and hence, the democratic elements of the Election Committee can be enhanced. This range of increase in the number of members is appropriate and consistent with the principle of gradual and orderly progress. This is more likely to be accepted by different sectors of society and will serve as a reference for the formation of the nominating committee when universal suffrage for the CE is implemented<sup>11</sup>.
- (d) Liberal Party considers that the existing Election Committee

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<sup>9</sup> Please refer to Appendix I (LC5) for details.

<sup>10</sup> Constitutional Reform Synergy was formed on the initiative of the Economic Synergy and its Chinese name has been changed from “工商界政改動力” to “工商專業政改動力” starting 15 March 2010. However, as the written proposal from the alliance was put forth on 10 February 2010, hence, we have adopted “工商界政改動力” in this document. (There is no change to the English name of the group.); please refer to Appendix I (LC3) for details of the submission.

<sup>11</sup> Please refer to Appendix I (LC15) for details.

should be expanded to 1200-1600 members and transformed into the nominating committee when universal suffrage is implemented, so as to enhance the legitimacy and representativeness of the nominating committee. Liberal Party also considers that, in increasing the number of Election Committee members, the principle of balanced participation should be taken into account and that the number of seats should be increased evenly for the four sectors<sup>12</sup>.

- (e) The Federation of Hong Kong & Kowloon Labour Unions (“HKFLU”) suggests that the number of Election Committee members should be increased to at least 1600. This can allow more District Council members who have a public mandate to be included in the fourth sector, and the number of members for the other sectors be increased accordingly. This can enhance the representativeness and legitimacy of the Election Committee, and in turn enhance the representativeness of the nominating committee when universal suffrage for the CE is implemented in 2017<sup>13</sup>.
- (f) Hong Kong Association for Democracy and People’s Livelihood (“ADPL”) proposes, on the premise that the District Council appointment system will be abolished, that all 405 elected District Council members should be included in the Election Committee, i.e. the number of Election Committee members will be increased from 800 to 1163 (after deducting the existing 42 members representing Hong Kong, Kowloon and New Territories District Councils in the fourth sector)<sup>14</sup>.
- (g) Savantas Policy Institute proposes that the number of

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<sup>12</sup> Please refer to Appendix I (LC18) for details.

<sup>13</sup> Please refer to Appendix I (LC9) for details.

<sup>14</sup> ADPL considers that it will not be appropriate to separate the proposed package for implementing universal suffrage from the mid-way package by focusing only on the discussion of the methods for amending the two elections in 2012. It will only be reasonable to have the future design for implementing universal suffrage confirmed before any meaningful discussion on the mid-way package can take place. ADPL reiterates its position that universal suffrage for the CE and the LegCo should be implemented as soon as possible and has put forth a proposal for implementing universal suffrage. Under the situation that universal suffrage for the CE and the LegCo cannot be implemented in 2012, ADPL put forth a possible mid-way package; please refer to Appendix I (LC14) for details.



members of the first, second and third sectors should be doubled (i.e. 400 members for each sector), and that the method of allocating the seats to these sectors should remain unchanged. For the fourth sector, the number of members should be increased to 600, with all elected District Council members included in the Election Committee. The number of Election Committee members will then be increased to 1800. This can, on the one hand, enhance the democratic elements, and on the other hand, comply with the principle of balanced participation. The Election Committee can be transformed into the nominating committee in 2017<sup>15</sup>.

- (h) Dr Hon Priscilla Leung Mei-fun supports that the size of the Election Committee should be expanded to 1200 members. The existing Election Committee can be transformed into the nominating committee when universal suffrage for the CE is implemented in 2017. Consideration may be given to adjusting the proportion of members of the four sectors, so as to increase the number of members for those subsectors with a wider electorate base, for example, to increase the number of members of the fourth sector by including all elected District Council Members. She also suggests that the number of members in different subsectors should be increased proportionally by including representatives of the middle class (for example, Chinese Medicine practitioners, the environmental protection sector, the publication sector, Small and Medium Size Enterprises (“SMEs”), youth, women, representatives of real estate agents and ethnic minorities, etc), who are among the silent majority within the community<sup>16</sup>.
- (i) Hon Ronny Tong Ka-wah proposes that the existing 42 seats for District Council representatives in the Election Committee should be abolished, and that all elected District Council members should become members<sup>17</sup>.

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<sup>15</sup> Hon Mrs Regina Ip Lau Suk-yea is the Chairperson of the Savantas Policy Institute; please refer to Appendix I (LC24) for details of the submission.

<sup>16</sup> Please refer to Appendix I (LC23) for details.

<sup>17</sup> Hon Ronny Tong Ka-wah has expressed that the proposal is put forth on the premise that the Government will accept the universal suffrage package proposed by the pan-democrats in 2007; please refer to Appendix I (LC25) for details.

3.09 The following LegCo Members have put forth relevant proposals to reflect the views of the sectors which they represent:

- (a) The wholesale and retail sector, represented by Hon Vincent Fang Kang<sup>18</sup>, supports the expansion of the size of the Election Committee, on the condition that the functional subsectors can be retained.
- (b) The engineering sector, represented by Ir Dr Hon Raymond Ho Chung-tai<sup>19</sup>, considers that the number of Election Committee members should be increased from 800 to 1600.
- (c) For the tourism sector represented by Hon Paul Tse Wai-chun, according to the survey results<sup>20</sup>, about 70% of the respondents agree that the number of the Election Committee members should be increased to 1200, while 20% do not agree.
- (d) For the architectural, surveying and planning sector represented by Prof Hon Patrick Lau Sau-shing<sup>21</sup>, according to the composite results of the survey, more than half of the respondents support that the number of the Election Committee members should be increased to not more than 1200. Half of them consider that the proportion of members

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<sup>18</sup> Hon Vincent Fang Kang has consolidated the views expressed by the wholesale and retail sector at the “consultation forum on constitutional development” held on 2 February 2010. There were over 180 participants from over 38 wholesale, retail, catering and transport associations; please refer to Appendix I (LC17) for details.

<sup>19</sup> Ir Dr Hon Raymond Ho Chung-tai has collated the views of the engineering sector through questionnaires and informal discussions and forums; please refer to Appendix I (LC21) for details.

<sup>20</sup> The office of Hon Paul Tse Wai-chun successfully interviewed the responsible persons of 142 licensed travel agents through questionnaires and telephone interviews. According to Hon Paul Tse Wai-chun, the hotel and airline industries generally do not have strong views on the constitutional review package, with one association having reflected its views to the Government through other channels; please refer to Appendix I (LC26) for details.

<sup>21</sup> Prof Hon Patrick Lau Sau-shing distributed questionnaires to members of the four professional associations (Hong Kong Institute of Surveyors, Hong Kong Institute of Architects, Hong Kong Institute of Planners and Hong Kong Institute of Landscape Architects). The rate of response was 1.98%. As to whether the majority who had not replied support the constitutional review package or not, a conclusion can only be made after another round of consultation has been conducted following the release of the Government’s proposed package. Prof Lau has consolidated the views received from the sector in response to the survey; please refer to Appendix I (LC22) for details.

of the four sectors should remain even.

- (e) Heung Yee Kuk, represented by Hon Lau Wong-fat<sup>22</sup>, supports that the number of the Election Committee members should be increased to not more than 1200.
- (f) The agriculture and fisheries sector, represented by Hon Wong Yung-kan<sup>23</sup>, supports that the number of the Election Committee members should be increased from 800 to 1200. They also request that the number of seats allocated to the agriculture and fisheries subsector should be increased by the same proportion from 40 to 60.

### *Written Submissions*

- 3.10 Among the relevant written submissions received during the consultation period, there are noticeably more views that the number of the Election Committee members should be increased to not more than 1200, and that the new seats should be allocated to the existing four sectors evenly<sup>24</sup>. Among these views, there are views that increasing the number of the Election Committee members to 1200 can facilitate the transformation of the Election Committee into the nominating committee when universal suffrage for the CE is implemented in 2017<sup>25</sup>.
- 3.11 However, there are views that, as compared with the proposal put forth by the HKSAR Government in 2005 to include all District Council members in the Election Committee and to increase the number of members to 1600, the proposal of increasing the number of the Election Committee members to 1200 is retrogressive<sup>26</sup>.

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<sup>22</sup> Please refer to Appendix I (LC10) for details.

<sup>23</sup> Please refer to Appendix I (LC28) for details.

<sup>24</sup> For example, the Association of Hong Kong Professionals considers it acceptable to increase the number of the Election Committee members from the current 800 to 1200. This proposal is consistent with the requirement of gradual and orderly progress, increases the participation of people from different sectors of the community, and enhances the representativeness and democratic elements of the Election Committee. It can also provide more room and opportunities for members of the public to take part in the CE Election, which can realize democratic progress and development; please refer to Appendix III (A1719) for details.

<sup>25</sup> For example, the Centre for Comparative and Public Law, Faculty of Law of the University of Hong Kong has put forth relevant views; please refer to Appendix III (A4024) for details.

<sup>26</sup> For example, the Association of Engineering Professionals in Society has put forth relevant views;

There are views that only elected District Council members should be included, so as to enhance the democratic elements of the Election Committee<sup>27</sup>.

3.12 There are also views that the number of the Election Committee members should be maintained at 800<sup>28</sup>, or increased to 1000, 1600<sup>29</sup> or more than 1600<sup>30</sup>.

## (II) The electorate base of the Election Committee

### *Opinion Polls*

3.13 Among the opinion polls conducted during the consultation period, those conducted respectively by Bauhinia Foundation Research Centre<sup>31</sup> and Hong Kong Research Association<sup>32</sup> indicate that

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please refer to Appendix III (A2903) for details.

<sup>27</sup> For example, the Law Society of Hong Kong has put forth relevant views; please refer to Appendix III (A2939) for details.

<sup>28</sup> For example, the Citizens' Commission on Constitutional Development considers that unless the imbalances in the current representation of certain sub-sectors can be resolved and "corporate votes" are to be eliminated, there is no merit in expanding the Election Committee in 2012; please refer to Appendix III (A3791) for details.

<sup>29</sup> For example, Basic Law Institute strongly requests that the number of Election Committee members should be increased to 1600, so as to ensure the broad representativeness of the 2017 nominating committee when it is transformed from the 2012 Election Committee; please refer to Appendix III (A4164) for details.

<sup>30</sup> For example, the Hong Kong Small and Medium Enterprises Association proposes that consideration may be given to increasing the number of the Election Committee members to 5000; please refer to Appendix III (A2999) for details.

<sup>31</sup> According to the poll conducted by Bauhinia Foundation Research Centre between 29 January and 3 February 2010:

- (a) about 68% of the respondents agree/strongly agree that more District Council members should be included in the 2012 Election Committee;
- (b) about 25% disagree/strongly disagree;
- (c) about 7% do not know/find it difficult to tell.

Among those who support that more District Council members should be included in the Election Committee:

- (a) about 67% of the respondents consider that the new District Council seats in the Election Committee should be returned through election by only elected District Council members from among themselves;
- (b) about 28% consider that such seats should be returned through election by both elected and appointed District Council members from among themselves
- (c) about 5% do not know/find it difficult to tell.

more respondents agree that representatives of the District Councils in the Election Committee should be increased and that the concerned seats should be returned through election by elected District Council members from among themselves.

- 3.14 At the same time, the opinion poll conducted by Bauhinia Foundation Research Centre<sup>33</sup> indicates that more than half of the respondents do not agree that replacing “corporate votes” in the Election Committee with “director’s votes” can enhance the representativeness of the Election Committee.

### *Legislative Council*

- 3.15 Various political parties/groups and Members of the LegCo have put forth the following relevant proposals:

- (a) DAB agrees that most of the new seats of the fourth sector should be allocated to District Council members, so as to enhance public participation in the Election Committee through the District Council members who have a public mandate. DAB notes that there are diverse views and controversies within the community on the proposal of replacing “corporate votes” with “director’s or executive’s votes” and its implementation. Through increasing the proportion of elected District Council members in the Election Committee can also expand the electorate base of the Election Committee.
- (b) Constitutional Reform Synergy considers that, although the

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<sup>32</sup> According to the poll conducted by Hong Kong Research Association between 7 and 11 February 2010:

- (a) 64% of the respondents agree that most of the new seats in the fourth sector should be returned through election by elected District Council members from among themselves;  
(b) 28% disagree;  
(c) 8% have no strong views/have no comment.

<sup>33</sup> According to the poll conducted by the Bauhinia Foundation Research Centre between 29 January and 3 February 2010:

- (a) about 58% of the respondents disagree/strongly disagree that replacing “corporate votes” with “director’s votes” in the Election Committee can enhance the representativeness of the Election Committee;  
(b) about 29% agree/strongly agree;  
(c) about 13% do not know/find it difficult to tell.

proposal to allocate all the new seats of the fourth sector to representatives elected from among elected District Council members is not the most ideal and fairest arrangement because it has excluded appointed District Council members, such a proposal can enhance the democratic elements of the 2012 CE election and allow members of the public to reflect their wishes indirectly through the participation of District Council members. The proposal is conducive to democratic progress, and is, therefore, acceptable. It also agrees that the existing “corporate votes” should be maintained. Given the differences in the composition and number of electors of various sectors, the nature of “corporate votes” for various sectors varies considerably. It will not be advisable to replace “corporate votes” with “individual votes” in one go because the process will be very complicated and will stir up a lot of controversies. Hence, it will not be appropriate to adjust the composition of the electorate of the Election Committee.

- (c) FTU considers that it is appropriate to increase the number of members of the four sectors of the Election Committee by the same proportion. However, the new seats to be allocated to the third sector should be allocated to the labour sector, so as to reflect the interests of the working population. As for the new seats to be allocated to the fourth sector, half of them can be allocated to District Council members. Such representatives should be returned through election by elected District Council members from among themselves, so as to enhance public participation.
- (d) Liberal Party considers that the proposal to allocate most of the new seats of the fourth sector to elected District Council members could be discriminatory. However, noting that appointed District Council members are willing to place the overall interest of the community ahead of their personal interests by supporting the relevant arrangements, and that certain democratic elements of the Election Committee can be enhanced by including more elected District Council members, they have no strong views against the proposal of allocating most of the seats of the fourth sector to elected District Council members. This can allow constitutional development to be rolled forward. Liberal Party also considers that “corporate votes” of the subsectors of the

Election Committee should be transformed into “director’s votes” (with each company having no more than six votes) or even “partner’s votes” (for entities which are not limited companies). This can broaden significantly the electorate base of the relevant subsectors.

- (e) Savantas Policy Institute proposes that all elected District Council members should be included in the fourth sector.
- (f) Civic Party proposes that the electorate base of the Election Committee should be broadened by including all elected District Council members, so as to enhance the democratic elements. The existing seats for “District Council representatives” in the Election Committee should be abolished<sup>34</sup>.
- (g) Dr Hon Priscilla Leung Mei-fun proposes that the number of members of the fourth sector should be increased by including all elected District Council members. Also, the electorate base of the Election Committee should be broadened, for example, by replacing “corporate votes” with “director’s/association’s/ individual votes”.

3.16 The following LegCo Members have put forth relevant proposals to reflect the views of the sectors which they represent:

- (a) For the tourism sector represented by Hon Paul Tse Wai-chun, according to the survey results, about 60% of the respondents agree that most of the 100 new seats of the political sector should be allocated to elected District Council members, and that such seats should be elected from among themselves, while about 20% do not agree. About 60% of the respondents consider that increasing the proportion of District Council members in the Election Committee can help broaden the electorate base and enhance the democratic elements of the Election Committee, while about 20% do not agree.
- (b) The agriculture and fisheries sector, represented by Hon Wong Yung-kan, considers that it is an ideal arrangement for most of the new seats of the fourth sector to be allocated to

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<sup>34</sup> Please refer to Appendix I (LC2) for details.

District Council members, with a view to attaining the goal that all elected District Council members will become Election Committee members.

### *Written Submissions*

- 3.17 Among the relevant written submissions received during the consultation period, there are more views that the electorate base of the Election Committee should be broadened through increased participation by elected District Council members<sup>35</sup>. As to whether “corporate votes” should be replaced with “director’s / individual votes” to broaden the electorate base of the Election Committee, there are more views which do not agree to this proposal<sup>36</sup>.
- 3.18 However, there are views that “corporate votes” should be replaced with “director’s / executive’s / individual votes”, so as to broaden the electorate base<sup>37</sup>.
- 3.19 There are views that while appointed District Council members’ right to stand for election could be abolished, their voting right should be retained<sup>38</sup>; there are views that while only elected District Council members should take part in the election, appointed District Council members should have the right to stand for election<sup>39</sup>; there are also views that all elected and appointed District Council members should be allowed to take part in the

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<sup>35</sup> For example, the Hong Kong Women Development Association suggests that the Election Committee should include representatives elected from among elected District Council members, so that members of the public can take part in the CE Election in a progressive manner; please refer to Appendix III (A0156) for details.

<sup>36</sup> For example, the Chinese General Chamber of Commerce agrees to the direction of broadening the electorate base of the Election Committee. However, such changes will involve interests of different parties and the implementation process will be complicated (including problems such as how to restrict companies/associations from increasing the number of voters, how to differentiate between voters and non-voters of a company/association, how to prevent corruption, etc). These problems cannot be resolved within a short period of time, hence, it will not be appropriate to implement such changes at this stage; please refer to Appendix III (A3187) for details.

<sup>37</sup> For example, the Hong Kong Institute of Housing has put forth a relevant proposal; please refer to Appendix III (A4151) for details.

<sup>38</sup> For example, the Hong Kong Chinese Enterprises Association has put forth a relevant proposal; please refer to Appendix III (A1881) for details.

<sup>39</sup> For example, the Association of Engineering Professionals in Society has put forth a relevant proposal; please refer to Appendix III (A2903) for details.



election<sup>40</sup>.

(III) The arrangements for nominating candidates for the office of the Chief Executive

3.20 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 the total membership of the Election Committee).

*Opinion Polls*

3.21 Among the opinion polls conducted during the consultation period, those conducted respectively by Hong Kong Institute of Asia-Pacific Studies of the Chinese University<sup>41</sup>, Bauhinia Foundation Research Centre<sup>42</sup>, Hong Kong Research Association<sup>43</sup> and One Country Two Systems Research Institute<sup>44</sup> indicate that

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<sup>40</sup> For example, the Hong Kong Chamber of Small and Medium Business has put forth a relevant proposal; please refer to Appendix III (A3927) for details.

<sup>41</sup> According to the poll conducted by Hong Kong Institute of Asia-Pacific Studies of the Chinese University between 22 and 30 December 2009:

- (a) about 51% of the respondents agree/strongly agree that the nomination threshold should be maintained at one-eighth of total membership of the Election Committee, i.e. each candidate is required to secure 150 nominations from 1200 members;
- (b) about 37% disagree/strongly disagree;
- (c) about 12% do not know/find it difficult to tell.

<sup>42</sup> According to the poll conducted by Bauhinia Foundation Research Centre between 29 January and 3 February 2010:

- (a) about 57% of the respondents agree/strongly agree that, for the CE election in 2012, the minimum number of subscribers should be maintained at one-eighth of the total membership of the Election Committee;
- (b) about 33% disagree/strongly disagree;
- (c) about 10% do not know/find it difficult to tell.

<sup>43</sup> According to the poll conducted by Hong Kong Research Association between 7 and 11 February 2010:

- (a) 53% of the respondents agree that the nomination threshold should be maintained at the existing level in 2012, i.e. at the ratio of one-eighth of the total membership of the Election Committee;
- (b) 39% disagree;
- (c) 8% have no strong views/have no comment.

<sup>44</sup> According to the poll conducted by One Country Two Systems Research Institute between 17 and 20 February 2010:

more than half of the respondents consider that it is appropriate to maintain the nomination threshold at the ratio of one-eighth of the total membership of the Election Committee.

### *Legislative Council*

3.22 Various political parties/groups and Members of the LegCo have put forth the following relevant proposals:

- (a) DAB supports maintaining the existing nomination threshold (i.e. one-eighth of the total membership of the Election Committee).
- (b) Constitutional Reform Synergy agrees that the nomination threshold should be maintained at the ratio of one-eighth of the total membership of the Election Committee, so as to ensure that CE candidates will have sufficient support and legitimacy. At the same time, the nomination threshold will not be set too high, so that the competitiveness of the CE election will not be affected.
- (c) FTU supports maintaining the nomination threshold at the ratio of one-eighth of the total membership of the Election Committee. However, in order to realize the broad legitimacy of CE candidates, nominations from each of the four sectors should account for at least 20% of the total number of nominations.
- (d) Liberal Party agrees that the existing requirement should be maintained, i.e. any person who has secured nominations from one-eighth of the total membership of the Election Committee can become a CE candidate. This can allow sufficient room for competition and ensure that candidates will have sufficient support.
- (e) HKFLU supports that the nomination threshold for the CE election should be set at the ratio of one-eighth of the total

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- (a) about 63% of the respondents agree that, for the CE election in 2012, the nomination threshold should be maintained at one-eighth of total membership of the Election Committee, i.e. each candidate is required to secure 150 nominations from 1200 members;
  - (b) about 25% disagree;
  - (c) about 12% have no strong views/do not know.

membership of the Election Committee. This can help ensure that candidates will have sufficient support. Moreover, it will not be appropriate to set an upper limit on the number of subscribers.

- (f) Savantas Policy Institute considers that, after proposed expansion of the Election Committee, the minimum number of nominations required would increase if the nomination threshold remains to be 12.5%. In view of this, the Institute suggests that the nomination threshold should be lowered to 10%. To ensure responsiveness to different sectors of society, it is suggested that each candidate should be required to obtain nominations from at least 5% of the members in each sector.
- (g) ADPL proposes that the nomination threshold should not be set higher than one-eighth of the total membership of the Election Committee, and that an upper limit on the number of subscribers should be set at one-fourth of the total number of members<sup>45</sup>.
- (h) Dr Hon Priscilla Leung Mei-fun proposes that the number of nominations that a CE candidate must secure should be maintained at the existing level of one-eighth, i.e. 150 nominations from among 1200 members.
- (i) Hon Ronny Tong Ka-wah proposes that the nomination threshold should be maintained at 100 members. An upper limit on the number of subscribers should be set at 200 and individual members should be allowed to nominate more than one candidate<sup>46</sup>.

3.23 The following LegCo Members have put forth relevant proposals to reflect the views of the sectors which they represent:

- (a) The engineering sector, represented by Ir Dr Hon Raymond Ho Chung-tai, considers that the nomination threshold should be maintained at the ratio of one-eighth of the total

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<sup>45</sup> Please refer to footnote 14.

<sup>46</sup> Please refer to footnote 17.

membership of the Election Committee, and that an upper limit on the number of subscribers should be set at one-fourth of the total number of members.

- (b) For the tourism sector represented by Hon Paul Tse Wai-chun, according to the survey results, about 60% of the respondents agree that the number of subscribers for nominating a CE candidate should be maintained at the ratio of one-eighth of the total membership of the Election Committee, while about 20% do not agree.
- (c) For the architectural, surveying and planning sector represented by Prof Hon Patrick Lau Sau-shing, according to the composite results of the survey, about half of the respondents do not agree that the current nomination threshold at the ratio of one-eighth of the total membership of the Election Committee should be maintained. About half of them agree that the arrangement of not setting an upper limit on the number of subscribers should be maintained.
- (d) The agriculture and fisheries sector, represented by Hon Wong Yung-kan, considers that, if the number of the Election Committee members is increased to 1200, the number of subscribers should also be increased from 100 to 150.

### *Written Submissions*

- 3.24 Among the relevant written submissions received during the consultation period, there are noticeably more views that the nomination threshold should be maintained at the ratio of one-eighth of the total membership of the Election Committee<sup>47</sup>. There are also views that the nomination threshold should be raised or lowered<sup>48</sup>.

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<sup>47</sup> For example, the Hong Kong Professionals and Senior Executives Association suggests that the number of nominations required should be set at one-eighth of the total membership of the Election Committee, so as to ensure that candidates will have sufficient support and to avoid having too many or too few candidates; please refer to Appendix III (A0234) for details.

<sup>48</sup> For example, the Professional Commons suggests that the nomination threshold should be set at a level no higher than the existing level, for example, candidates should be required to obtain nominations from only 50 to 100 Election Committee members; please refer to Appendix III (A4147) for details.

3.25 As regards other relevant nominating arrangements, on the issue of whether an upper limit on the number of subscribers should be set, there are noticeably more views that no such limit should be set<sup>49</sup>, but there are also contrary views<sup>50</sup>. Besides, there are views that candidates should be required to obtain a certain number of nominations from each sector<sup>51</sup>.

#### (IV) Political affiliation of the Chief Executive

3.26 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.

#### *Opinion Polls*

3.27 Among the opinion polls conducted during the consultation period, the one conducted by Bauhinia Foundation Research Centre<sup>52</sup> indicates that more than half of the respondents consider that the requirement that the CE should not have any political affiliation

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<sup>49</sup> For example, the Chinese General Chamber of Commerce agrees that no upper limit on subscribers should be set, so that members of the Election Committee can exercise their right to nominate candidates and the nomination results of CE candidates will not be distorted artificially; please refer to Appendix III (A3187) for details.

<sup>50</sup> For example, the Business and Professionals Federation of Hong Kong considers that an upper limit of not more than 50% of the total number of Election Committee members should be set; please refer to Appendix III (A0270) for details.

<sup>51</sup> For example, the Hong Kong Chinese Enterprises Association proposes that CE candidates should be required to obtain one-eighth of the nominations from each sector; please refer to Appendix III (A1881) for details.

<sup>52</sup> According to the poll conducted by Bauhinia Foundation Research Centre between 29 January and 3 February 2010:

- (a) about 55% of the respondents consider that the requirement that the CE should not have any political affiliation should be maintained;
- (b) about 36% consider that this requirement should be abolished;
- (c) about 9% do not know/find it difficult to tell.

should be maintained.

### *Legislative Council*

3.28 Various political parties/groups and Members of the LegCo have put forth the following relevant proposals:

- (a) Liberal Party considers that if the CE is allowed to have party membership, this can help resolve the existing structural problem that “the CE has power but no votes, while political parties of the LegCo have votes but no power”. This can also facilitate the formulation of Government’s policies that will take into account public sentiments. Hence, it is proposed that the CE should be allowed to have party membership.
- (b) Savantas Policy Institute considers that the requirement that the CE should not have any political affiliation should be abolished. Instead, the CE should be allowed to retain his/her political affiliation. This can encourage candidates to build up their community networks and political support in the LegCo. This would enhance government effectiveness.
- (c) Democratic Party considers that it is appropriate for the CE to be a member of a political party<sup>53</sup>.
- (d) ADPL proposes that the requirement that the CE should not have any political affiliation should be abolished<sup>54</sup>.
- (e) Civic Party proposes to remove the restriction against political party affiliation of the CE.
- (f) Dr Hon Priscilla Leung Mei-fun considers that the requirement that the CE should not have any political affiliation could be maintained at the current stage. However, in the longer term, in view of the emergence and development of political parties in

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<sup>53</sup> Democratic Party considers that, if the Government will pledge that there will be genuine universal suffrage for the CE in 2017 and for the LegCo in 2020, there is room for discussion on the transitional electoral arrangements. It is on this premise that the Democratic Party has put forth the timetable and roadmap for universal suffrage; please refer to Appendix I (LC8) for details.

<sup>54</sup> Please refer to footnote 14.

Hong Kong, consideration should be given to formulating a political party law.

- 3.29 The following LegCo Members have put forth relevant proposals to reflect the views of the sectors which they represent:
- (a) For the tourism sector represented by Hon Paul Tse Wai-chun, according to the survey results, more than 70% of the respondents agree that the requirement that the CE should not have any political affiliation should be maintained, while more than 10% do not agree.
  - (b) For the architectural, surveying and planning sector represented by Prof Hon Patrick Lau Sau-shing, according to the composite results of the survey, more than half of the respondents do not agree that the requirement that the CE should not have any political affiliation should be maintained.

#### *Written Submissions*

- 3.30 Among the relevant written submissions received during the consultation period, there are noticeably more views that the requirement that the CE should not have any political affiliation should be maintained<sup>55</sup>; but there are also contrary views<sup>56</sup>.
- 3.31 There are views that although opinion polls indicate that people of Hong Kong generally consider that the relevant requirements should be maintained at the current stage, this should be reviewed in the longer term, in order not to hinder the development of political parties or affect the formation of a CE-led governing coalition<sup>57</sup>.

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<sup>55</sup> For example, the Hongkong Civic Association has put forth a relevant proposal; please refer to Appendix III (A3946) for details.

<sup>56</sup> For example, the Law Society of Hong Kong has put forth a relevant proposal; please refer to Appendix III (A2939) for details.

<sup>57</sup> For example, Bauhinia Foundation Research Centre has put forth a relevant proposal; please refer to Appendix III (A4318) for details.

## Views Received on the Method for Forming the Legislative Council in 2012

- 3.32 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.
- 3.33 On the premise that the Basic Law and the NPCSC decision must be complied with, we have set out the following three key issues in the consultation document:
- (I) The number of seats in the Legislative Council;
  - (II) The electorate base of the functional constituencies; and
  - (III) Whether the existing arrangement that Legislative Council 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.
- 3.34 The paragraphs below summarize the results of the relevant opinion polls, the written proposals put forth by political parties/groups and Members of the LegCo, and written submissions put forth by organizations and individuals.
- (I) The number of seats in the LegCo

### *Opinion Polls*

- 3.35 Among the opinion polls conducted during the consultation period, those conducted respectively by Hong Kong Institute of Asia-Pacific Studies of the Chinese University<sup>58</sup>, Bauhinia

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<sup>58</sup> According to the poll conducted by Hong Kong Institute of Asia-Pacific Studies of the Chinese University between 28 January and 4 February 2010:

- (a) about 54% of the respondents agree/strongly agree that, for the 2012 LegCo election, the number of GC and FC seats should be increased by five respectively;
- (b) about 33% disagree/strongly disagree;



Foundation Research Centre<sup>59</sup>, Hong Kong Research Association<sup>60</sup> and One Country Two Systems Research Institute<sup>61</sup> indicate that more than half of the respondents agree that the number of LegCo seats in 2012 should be increased from 60 to 70, i.e. five additional seats for GCs and FCs respectively.

### *Legislative Council*

3.36 Various political parties/groups and Members of LegCo have put forth the following relevant proposals:

- (a) DAB agrees that the number of LegCo seats should be increased to 70 (i.e. 35 seats to be returned by GCs and the other 35 by FCs), so as to enhance the democratic elements.
- (b) Constitutional Reform Synergy agrees that the number of LegCo seats should be increased by 10, which can broaden the avenues for political participation, enable more people of different backgrounds, experience and views to contribute to the community, and meet the operational requirements of the LegCo. This is also consistent with the NPCSC decision.
- (c) FTU agrees that the number of LegCo seats should be

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(c) about 13% do not know/find it difficult to tell.

<sup>59</sup> According to the poll conducted by Bauhinia Foundation Research Centre between 29 January and 3 February 2010:

(a) about 54% of the respondents agree/strongly agree that the number of LegCo seats should be increased from 60 to 70 in 2012, and that the number of GC and FC seats should be increased by five respectively;

(b) about 29 % disagree/strongly disagree;

(c) about 17% do not know/find it difficult to tell.

<sup>60</sup> According to the poll conducted by the Hong Kong Research Association between 7 and 11 February 2010:

(a) 63% of the respondents agree that the number of LegCo seats should be increased from 60 to 70;

(b) 25% disagree;

(c) 12% have no strong views/have no comment.

<sup>61</sup> According to the poll conducted by One Country Two Systems Institute between 17 and 20 February 2010:

(a) about 69% of the respondents agree that the number of LegCo seats should be increased from 60 to 70 in 2012;

(b) about 20% disagree;

(c) about 11% have no comment/do not know.

increased to 70. In accordance with the NPCSC decision, there will be 35 GC seats and 35 FC seats. This is appropriate to the actual situation in Hong Kong and can enhance the democratic elements.

- (d) Liberal Party proposes that the number of LegCo seats should be increased from 60 to 70. In accordance with the NPCSC decision, the additional 10 seats should be allocated evenly to the GCs and FCs.
- (e) HKFLU proposes that the number of LegCo seats should be increased to 80. In view of the continuous growth of the Hong Kong population, increasing the number of seats can keep the seat-to-population ratio at a reasonable level. Also, this can help nurture more political talents who have an aspiration to serve the public, enhance civic awareness and encourage the public to care more about social affairs.
- (f) ADPL proposes that the number of FC and GC seats should be increased by 10 respectively, i.e. the number of seats should be increased from the current 60 to 80. The reason is that the current ratio of one LegCo Member to the population is relatively high, as compared to other similar economies. Reducing the ratio to one LegCo Member serving more than 87000 people can broaden the avenues for political participation, attract more people of different political stances, backgrounds and experience to participate in politics, and share the heavy workload of the LegCo<sup>62</sup>.
- (g) Civic Party is opposed to the addition of new FC seats and proposes that FCs of similar natures and with relatively small electorates should be combined.
- (h) Dr Hon Priscilla Leung Mei-fun agrees that the number of LegCo seats should be increased from 60 to 70.

3.37 The following LegCo Members have put forth relevant proposals to reflect the views of the sectors which they represent:

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<sup>62</sup> Please refer to footnote 14.

- (a) In the wholesale and retail sector, represented by Hon Vincent Fang Kang, there are views that it is not necessary to increase the number of LegCo seats because more Members in LegCo does not necessarily mean the work of the LegCo will be more effective.
- (b) For the tourism sector represented by Hon Paul Tse Wai-chun, according to the survey results, more than half of the respondents agree that the number of LegCo seats should be increased from 60 to 70, while more than 10% do not agree.
- (c) For the architectural, surveying and planning sector represented by Prof Hon Patrick Lau Sau-shing, according to the composite results of the survey, most of the respondents agree that the number of LegCo seats should be increased to 70.
- (d) The agriculture and fisheries sector, represented by Hon Wong Yung-kan, agrees that the number of LegCo seats should be increased from 60 to 70.

### *Written Submissions*

3.38 Among the written submissions received during the public consultation period, there are noticeably more views that the number of LegCo seats should be increased from 60 to 70<sup>63</sup>, but there are also views that the number of seats should be increased to 80<sup>64</sup>. Moreover, there are views that the current number of seats should remain unchanged<sup>65</sup>.

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<sup>63</sup> For example, the Chinese Manufacturers' Association of Hong Kong has put forth a relevant proposal; please refer to Appendix III (A3644) for details.

<sup>64</sup> For example, the Alliance for Universal Suffrage proposes to increase the number of LegCo seats to 80 (40 GC seats and 40 FC seats). The GC seats should be returned by the current proportional representation system; please refer to Appendix III (D099) for details.

<sup>65</sup> For example, the Law Society of Hong Kong considers that if the number of seats in LegCo is increased to 70, a two-thirds majority will require 47 votes and thus it will be much harder to achieve 47 votes to abolish the FCs. Hence, the Society favours retention of the status quo, namely 60 seats; please refer to Appendix III (A2939) for details.

## (II) The electorate base of the functional constituencies

### *Opinion Polls*

3.39 Among the opinion polls conducted during the consultation period, those conducted respectively by Hong Kong Institute of Asia-Pacific Studies of the Chinese University<sup>66</sup>, Bauhinia Foundation Research Centre<sup>67</sup>, Hong Kong Research Association<sup>68</sup> and One Country Two Systems Research Institute<sup>69</sup> indicate that about 60% of the respondents agree that, in 2012, all additional FC seats should be returned through election by elected District Council members from among themselves.

3.40 At the same time, according to the results of the poll conducted by Bauhinia Foundation Research Centre<sup>70</sup>, more than 60% of the

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<sup>66</sup> According to the poll conducted by Hong Kong Institute of Asia-Pacific Studies of the Chinese University between 28 January and 4 February 2010:

- (a) about 58% of the respondents agree/strongly agree that, for the 2012 LegCo election, the five new FC seats should be returned through election by elected District Council members from among themselves;
- (b) about 33% disagree/strongly disagree;
- (c) about 9% do not know/find it difficult to tell.

<sup>67</sup> According to the poll conducted by Bauhinia Foundation Research Centre between 29 January and 3 February 2010:

- (a) about 60% of the respondents agree/strongly agree that increasing the number of seats returned by elected District Council members can enhance the representativeness of LegCo FCs in 2012;
- (b) about 30 % disagree/strongly disagree;
- (c) about 10% do not know/find it difficult to tell.

<sup>68</sup> According to the poll conducted by the Hong Kong Research Association between 7 and 11 February 2010:

- (a) about 59% of the respondents agree that all the five new FCs should be returned through election by elected District Council members from among themselves;
- (b) about 34% disagree;
- (c) about 7% have no strong view/have no comment.

<sup>69</sup> According to the poll conducted by One Country Two Systems Institute between 17 and 20 February 2010:

- (a) about 63% of the respondents agree that the five new District Council FC seats, together with the existing District Council seat, should all be returned through election by elected District Council members from among themselves;
- (b) about 27% disagree;
- (c) about 10% have no comment.

<sup>70</sup> According to the poll conducted by Bauhinia Foundation Research Centre between 29 January and 3 February 2010:

respondents do not agree that replacing “corporate votes” with “director’s votes” of the FCs can enhance the representativeness of FCs.

### *Legislative Council*

3.41 Various political parties/groups and Members of LegCo have put forth the following relevant proposals:

- (a) Given that the electorate base of elected District Council members is 3.3 million voters, DAB agrees that the five new FC seats and the existing District Council FC seat should be returned through election by elected District Council members from among themselves. Regarding the view that people from different sectors within the community can run for the concerned seats, DAB considers this acceptable.
- (b) Constitutional Reform Synergy considers that the proposal of having the five new FC seats and the existing District Council FC seat returned through election by elected District Council members from among themselves is not ideal because it excludes appointed District Council members and fails to take into consideration other FCs. However, they believe that the proposal is conducive to enhancing the democratic elements of the 2012 LegCo election, which allows the public to reflect their wishes in LegCo indirectly through their participation in the District Council elections. They support the proposal also because it stands the highest possibility of being accepted by different sectors of society. Moreover, they agree that the electorate base of the existing FCs should remain unchanged, so as to avoid controversies. Otherwise, it would be difficult for the community to achieve consensus.
- (c) FTU agrees that the five new FC seats and the existing District Council FC seat should be returned through election by elected District Council members from among themselves,

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- (a) about 62% of the respondents disagree/strongly disagree that replacing “corporate votes” of FCs with “director’s votes” can enhance the representativeness of LegCo FCs;
  - (b) about 24 % agree/strongly agree;
  - (c) about 14% do not know/find it difficult to tell.

and considers that the electorate base of the FCs should not be adjusted for the time being, so as to avoid affecting the current state of balance.

- (d) Liberal Party is willing to accept the “District Council proposal” (i.e. five new FC seats and the existing District Council FC seat to be returned through election by elected District Council members from among themselves), but proposes that the democratic elements of the proposal can be further enhanced by opening up the right to stand for the District Council FC election (i.e. talented people from different sectors of the community, including appointed District Council members, can be nominated by elected District Council members to be candidates for the six District Council FC seats, and the FC Members will be returned through election by elected District Council members).

Liberal Party also proposes that the electorate base of “traditional” FCs should be broadened in a progressive manner by replacing “corporate votes” of FCs with “director’s votes” (with each company having no more than six votes) or even “partner’s votes” (for entities which are not limited companies). This can broaden significantly the electorate base of the FCs.

- (e) HKFLU considers that under the framework of the NPCSC decision that the ratio between LegCo GC and FC Members should remain unchanged, the proposal of allocating five new FC seats to the District Councils and having all these seats to be returned through election by elected District Council members from among themselves is a practicable solution. Given that District Council members have a public mandate, the proposal is believed to be conducive to enhancing the representativeness of FCs. Regarding the existing FC elections, one improvement measure is to replace “corporate votes” with “individual votes”, so as to broaden the electorate base and enhance the representativeness of FCs.
- (f) Savantas Policy Institute considers that the electorate base of FCs should be expanded as much as possible, and that the major shortcoming of the District Council proposal lies in the narrow electorate base of each District Council constituency

consisting of around 17000 voters. District Council members are prone to defend narrow, local interests. However, the proposal is more likely to be acceptable to a majority of legislators and can provide a mechanism to groom political talents. In view of this, they accept this proposal upon condition that the voting mechanism is carefully designed.

- (g) ADPL proposes that, on the premise that the District Council appointment system will be abolished, all 10 new FC seats and the existing District Council FC seat should be returned through election by elected District Council members from among themselves. The number of seats containing an element of direct and indirect elections will then be increased to 51 (as compared to 29 traditional FC seats), which will represent five-eighths of the total number of seats<sup>71</sup>.
- (h) Democratic Party proposes to adopt “one-person-two-votes”: one vote in GC, one vote in FC. FC seats include the existing FC seats and the new District Council seats. Each voter will have one, and only one, vote in any of the FCs. The new 10 District Council FC seats will be nominated by District Council members and elected by all registered voters of Hong Kong. The existing FCs should be phased out in a gradual and orderly manner by giving each voter the right to vote in the relevant FC according to his/her occupation, so as to expand the electorate base of the FCs. If a voter does not belong to any relevant FCs, he/she will become the elector of the new District Council FC automatically. The existing 10 FCs with the least number of electors should be merged into five<sup>72</sup>.
- (i) Civic Party proposes that FCs of similar natures and with relatively small electorates should be combined.
- (j) Hon Paul Tse Wai-chun suggests that active consideration should be given to allocating the five new FC seats to sectors that are representative and which have a large number of voters, including housewives, youths, elderly, handicapped,

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<sup>71</sup> Please refer to footnote 14.

<sup>72</sup> Please refer to footnote 53.

SMEs, and those who had been imprisoned, etc<sup>73</sup>.

- (k) Hon Ronny Tong Ka-wah proposes that the five new District Council FC seats should be returned through one-person-one-vote by all registered voters, using proportional representation voting system and with the whole territory as a single constituency. As for the existing District Council seat, it should be returned through election by elected District Council members from among themselves<sup>74</sup>.

3.42 The following LegCo Members have put forth relevant proposals to reflect the views of the sectors which they represent:

- (a) The wholesale and retail sector, represented by Hon Vincent Fang Kang, generally acknowledges the value of the existence of FCs. Most of those who support retaining the FCs consider that the electorate base of FCs can be expanded and that the restrictions regarding voter registration can be relaxed. However, employers' and employees' votes should be delineated carefully, so as to avoid FCs from being developed into "FC labour unions". Moreover, some consider that it is not fair to allocate all five new seats to District Councils, and that the size of the relevant industries (e.g. Chinese medicine industry) should be taken into account when considering the issue. Also, some consider that even if appointed District Council members will not be eligible to vote, they should be allowed to be nominated as candidates.
- (b) The engineering sector, represented by Ir Dr Hon Raymond Ho Chung-tai, considers that the five additional seats given to District Council Constituency would be evenly allocated to and returned by five geographical constituencies through direct election with the eligibility of candidacy restricted to district members only through nomination among themselves.
- (c) For the tourism sector represented by Hon Paul Tse Wai-chun,

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<sup>73</sup> The written proposal put forth by Hon Paul Tse Wai-chun not only reflects the views of the sector which he represents, but also contains his personal views.

<sup>74</sup> Please refer to footnote 17.



according to the survey results, more than half of the respondents agree that, of the 10 new seats, five should be allocated to District Councils, while more than 20% do not agree.

- (d) For the architectural, surveying and planning sector represented by Prof Hon Patrick Lau Sau-shing, according to the composite results of the survey, most of the respondents consider that “corporate votes” should be replaced with “director’s / executive’s / association’s / individual votes”; more than half do not agree that all new District Council seats should be returned through election by elected District Council members from among themselves.
- (e) Heung Yee Kuk, represented by Hon Lau Wong-fat, supports that, aside from increasing five GC seats, all five new FC seats and the existing District Council FC seat should be elected by District Council members, who are returned by election, from among themselves.
- (f) The agriculture and fisheries sector represented by Hon Wong Yung-kan agrees that the five new FC seats, together with the existing seat, should be returned through election by elected District Council members from among themselves. The advantages of this proposal are that the electorate base can be broadened, and that this will render LegCo to give more attention to grassroot and livelihood issues in future.

### *Written Submissions*

- 3.43 Among the written submissions received during the consultation period, there are noticeably more views that the electorate base of FCs should be broadened through enhancing the participation of elected District Council members in the LegCo election<sup>75</sup>; but there

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<sup>75</sup> For example, the Alliance for Universal Suffrage has proposed that, for the 40 FC seats, the current 29 “traditional” functional constituencies will remain unchanged. The other 11 seats belong to the District Council functional constituency. All registered voters have the chance to cast a vote in one of the functional constituencies. In the District Council FC, candidates need the nomination of 10 District Councilors. The nominated candidates must be current District Councilors or those who have substantial connection with the district councils. All the registered voters who are not currently enrolled in any existing functional constituencies can be enrolled in this functional constituency, and each voter can only enroll in one FC. After nomination, the candidates will be voted on by all electors in this FC, with seat allocation decided by proportional representation; please refer to Appendix III

are views expressing reservation about this proposal, and the reasons include:

- (a) allocating all five new FC seats to District Councils will result in the legislature focusing its discussions too much on district affairs, which will make the vision of the legislature too narrow<sup>76</sup>;
- (b) the new FC seats should be returned through election by both appointed and elected District Council members from among themselves<sup>77</sup>; there are also suggestions that appointed District Council members should have the right to stand for the election<sup>78</sup>;
- (c) some of the new FC seats should be allocated to District Council members, and some to other sectors<sup>79</sup>;
- (d) new “traditional” FCs should be created<sup>80</sup>.

3.44 As to whether “corporate votes” should be replaced with “director’s / individual votes” as a means to broaden the electorate base of FCs, there are more views which do not agree to the relevant proposal<sup>81</sup>; there are also contrary views<sup>82</sup>.

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(D099) for details.

<sup>76</sup> For example, Federation of Hong Kong Industries has put forth a relevant proposal; please refer to Appendix III (A2426) for details.

<sup>77</sup> For example, Federation of Hong Kong Industries considers that appointed and elected District Council members carry out the same functions and bear the same responsibilities. The voting right of appointed District Council members should not be taken away, so as to avoid the impression that appointed District Council members are be-littled; please refer to Appendix III (A2426) for details.

<sup>78</sup> For example, Association of Engineering Professionals in Society has put forth a relevant proposal; please refer to Appendix III (A2903) for details.

<sup>79</sup> For example, Hong Kong Small and Medium Enterprises Association considers that if the number of FC seats is to be increased to more than five, five seats can be allocated to District Councils. Otherwise, two or three seats should be allocated to other new and representative sectors; please refer to Appendix III (A2999) for details.

<sup>80</sup> For example, the Hong Kong Registered Chinese Medical Practitioners Association has put forth a relevant proposal; please refer to Appendix III (A0328) for details.

<sup>81</sup> For example, the Chinese General Chamber of Commerce has put forth a relevant proposal; please refer to Appendix III (A3187) for details.

<sup>82</sup> For example, Business and Professionals Federation of Hong Kong has put forth a relevant proposal;



























- 4.09 The HKSAR Government put forth in 2005 the proposal concerning the method for selecting the CE in 2007, suggesting that the number of the Election Committee members be increased to 1600 and that all appointed and elected District Council members be included in the Election Committee; the situation at the time is completely different from now. In 2005, Hong Kong had yet to have a clear timetable for attaining universal suffrage. The aim of the proposal then was to enhance the democratic elements of the election as far as possible, so as to facilitate Hong Kong to move toward the ultimate aim of universal suffrage in gradual and orderly progress.
- 4.10 We have now attained the universal suffrage timetable. 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. 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.
- 4.11 Hence, we consider that, in 2012, if the number of the Election Committee members is increased to 1200 and the number of seats for each of the four sectors remains the same, this will facilitate this Election Committee being used as the basis for transforming into the nominating committee when universal suffrage for the CE is implemented in 2017.

## (II) The electorate base of the Election Committee

- 4.12 Concluding the views received during the consultation period, we note that there is a consensus within the community that the electorate base of the Election Committee should be broadened. As to how the electorate base should be broadened, overall speaking, there is more support among the political parties/groups and Members of LegCo, as well as various organizations and individuals in the community for enhancing the representativeness of the Election Committee through increasing the proportion of District Council members, who have a public mandate, in the Election Committee.

- 4.13 Although certain political parties/groups, organizations and individuals consider that “corporate votes” of the existing subsectors should be replaced with “director’s / executive’s / association’s / individual votes”, the specific proposals thereby put forth require substantial changes to the existing subsectors. We note that, during the consultation period, various sectors have voiced considerable opposition. Hence, the HKSAR Government considers that, at this stage, the community and the LegCo are unlikely to reach consensus on this proposal.
- 4.14 Therefore, the HKSAR Government proposes to increase the proportion of elected District Council members, who are elected by more than 3.3 million voters, in the Election Committee. Not only can the proposal broaden the electorate base and enhance the democratic elements of the Election Committee more effectively, it can also have a higher possibility to be agreed by the community and LegCo.

(III) The arrangements for nominating candidates for the office of the Chief Executive

- 4.15 The HKSAR Government proposes to maintain the current nomination threshold, i.e. at the ratio of one-eighth of the total membership of the Election Committee. Under this proposal, if the number of the Election Committee members is increased to 1200, the number of subscribers required shall be not less than 150.
- 4.16 We consider that the current nomination threshold can already allow sufficient competitiveness, and can ensure that the candidates have sufficient support. This proposal also has the general support of the LegCo, and various organizations and individuals within the community.
- 4.17 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. In the public consultation, there are noticeably more views that an upper limit on the number of subscribers should not be set. The HKSAR Government proposes that, at this stage, such a limit should not be set.



#### (IV) Political affiliation of the Chief Executive

- 4.18 As to whether the requirement that the CE should not have any political affiliation should be changed, opinion polls have indicated that more than half of the respondents consider that the requirement that the CE should not have any political affiliation should be maintained. Separately, in the relevant written submissions received, there are noticeably more views which consider that the requirement that the CE should not have any political affiliation should be maintained. However, most of the political parties/groups and Members of the LegCo, who have put forth the relevant views, propose that the current requirement should be abolished.
- 4.19 The HKSAR Government considers that the relevant requirement has far-reaching implications on effective governance and development of political parties in the HKSAR. In the light of the general view of the community that the relevant requirement should be maintained, and due to the fact that political parties in Hong Kong are currently still in a developmental phase, the HKSAR Government proposes that the relevant requirement should not be changed for the 2012 CE election, but can be reviewed in the longer term.

#### **Method for Forming the Legislative Council in 2012**

##### (I) The number of seats in the Legislative Council

- 4.20 The HKSAR Government proposes that the number of LegCo seats be increased 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.
- 4.21 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 from about 1:116800 to about 1:103000.

## (II) The electorate base of the functional constituencies

- 4.22 Concluding the views received during the consultation period, we note that there is a consensus within the community that the electorate base of the FCs should be broadened. As to how the electorate base should be broadened, overall speaking, there is more support among political parties/groups and Members of LegCo, as well as various organizations and individuals in the community for enhancing the representativeness of the LegCo election through increasing the proportion of District Council members, who have a public mandate, in the LegCo.
- 4.23 Although certain political parties/groups, organizations and individuals consider that “corporate votes” of the existing FCs should be replaced with “director’s / executive’s / association’s / individual votes”, the specific proposals thereby put forth require substantial changes to the existing FCs, for example, different FCs have to be merged. We note that, during the consultation period, various sectors have voiced considerable opposition. Hence, the HKSAR Government considers that, at this stage, the community and the LegCo are unlikely to reach consensus on the proposal, and it will not be appropriate to make substantial changes to the existing FCs.
- 4.24 Therefore, the HKSAR Government proposes to have 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:
- (a) 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;
  - (b) with no “traditional” FCs being created, this will help forge consensus within the community;
  - (c) elected District Council members are returned by more than

3.3 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

- (d) based on the views received during the consultation period, the LegCo, as well as various organizations and individuals within the community generally support the proposal. This should stand a better chance of engendering consensus.

4.25 As to what voting method should be adopted for returning the six District Council FC seats, the HKSAR Government proposes to adopt the “proportional representation system”. Based on this method, the seats can be allocated in a fair manner, where political parties/groups of different sizes and independent candidates will all have a chance to get elected. As to whether “single transferrable voting system”<sup>115</sup> or “list proportional representation system”<sup>116</sup> should be adopted specifically, pursuant to the relevant provisions in Annex II to the Basic Law, this may be specified by local legislation, i.e. in the context of the Legislative Council (Amendment) Bill.

4.26 Regarding the allocation of the five new LegCo GC seats, this can also be specified by local legislation.

(III) Whether the existing arrangement that Legislative Council 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

4.27 The HKSAR Government proposes that the existing arrangement (i.e. permanent residents of Hong Kong who are not of Chinese nationality or who have the right of abode in foreign countries may

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<sup>115</sup> Each elector can only cast one vote, but he/her can rank the candidates in the order of preference and mark his/her options on the ballot paper. In any round of vote counting, a candidate whose number of first choice votes is greater than the quota will be elected. The surplus of votes would be transferred to the candidate who is ranked second on elected members’ ballot papers and has not yet been returned. After the transfer of votes, and if there is a candidate whose number of votes is greater than the quota, he/she will be elected. If the number of elected members is still less than the total number of seats, the candidate with the lowest number of votes will be eliminate first and his / her votes will be transferred to the second-choice candidate. The process will continue until the requisite number of members is elected.

<sup>116</sup> Seats will be allocated according to the distribution of votes received by different political parties or list of candidates.

stand in the elections for 12 FC seats) should be maintained, 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.

## **Conclusion**

### “District Council Proposal”

- 4.28 The HKSAR Government proposes that, in 2012, only elected District Council members should elect from among themselves for returning the District Council seats in the Election Committee and the LegCo. The purpose of this proposal is to further enhance the democratic elements of the two elections through increasing the participation of elected District Council members, who have the public mandate.
- 4.29 In particular, for the LegCo FC elections, according to the proposal, 41 seats (i.e. close to 60% of all seats) will be returned through geographical direct or indirect elections in the 2012 LegCo. Coupled with the seats in the professional sectors which are currently returned through one-person-one-vote<sup>117</sup>, the 70-seat strong LegCo will have a considerable level of democratic elements.
- 4.30 Regarding the proposal that appointed District Council members will not participate in the election of District Council seats in the Election Committee and the LegCo from among themselves, we must emphasize that, for some years, appointed District Council members, like the elected members, have been serving the public wholeheartedly. The HKSAR Government fully recognizes their contribution. However, for the purpose of further enhancing the democratic elements of the elections, and forging consensus within the community on 2012 constitutional development, we propose that only elected District Council members will elect from among themselves for returning the District Council seats in the Election Committee and the LegCo in 2012.

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<sup>117</sup> For example, the Education, Legal, Accountancy, Medical, Health Services, Engineering, Architectural, Surveying and Planning FCs, etc.

4.31 We note that, during the consultation period, some people expressed concerns about enhancing the participation of elected District Council members in the CE and LegCo elections:

- (a) There are views that District Council members are not sufficiently representative because they are actually elected by only a few to ten thousand voters, and their vision focuses only on district matters. Allocating all the new FC seats to District Council members will make the LegCo more like a District Council.

We consider that District Council members should not be be-littled. District Council is the cradle for nurturing political talents. The experience of District Council members in participating in politics and in serving the public will facilitate their work at the LegCo. As a matter of fact, quite a number of the incumbent LegCo Members of different political parties and groups are also District Council members. They have attached importance to both the overall interest of the community and local interests in dealing with business in the LegCo. They have contributed to the work of both the LegCo and District Councils.

- (b) There are views that under the Basic Law, District Councils are not organs of political power. The proposal of increasing the seats for District Council members in the Election Committee and allocating all new LegCo FC seats to District Council members, so as to empower them to elect the CE and LegCo Members, is not consistent with the Basic Law.

We should emphasize that there are already representatives of District Councils in the current Election Committee and LegCo. The Basic Law has already stipulated the powers and functions of district organizations, and the District Council Ordinance has also clearly provided for the powers and functions of District Councils. The participation of District Council members, either as a voter or a candidate, in the elections of Election Committee and LegCo is not authorized by the District Council Ordinance. Such power originates from other Ordinances, i.e. the Chief Executive Election Ordinance and the Legislative Council Ordinance. Enhancing the participation of District Council members in the two

elections will not transform the District Councils into organs of political power, or change the powers and functions of the District Councils.

- (c) There are views that voters have not, through their votes, authorized District Council members to elect the CE or LegCo Members on their behalf.

There are already representatives of District Councils in the current Election Committee and LegCo. The next-term District Council election, which will be held by the end of 2011, will take place earlier than the CE and LegCo elections in 2012. Voters will have known by the time they cast their votes that District Council members will have a chance to get elected into the Election Committee and LegCo.

- (d) Regarding the view that the “District Council proposal” is designed for a certain political party, we consider that this cannot be substantiated by facts because the District Council election will take place in end-2011. It is indeed uncertain as to how the election results will affect the CE and LegCo elections to be held in 2012.

4.32 The HKSAR Government acknowledges that the “District Council proposal” is by no means a perfect one, and that it will not be able to respond to all aspirations of the community. However, this is truly a proposal which represents democratic progress. We have already responded to the aspiration of those LegCo Members who vetoed the proposed package in 2005 by suggesting that only elected District Council members will participate in the election of District Council seats in the Election Committee and LegCo. We have also attained a clear universal suffrage timetable. Under the framework of the NPCSC decision, we have already strived for maximum latitude to enhance the democratic elements of the two elections in 2012 and to pave the way for implementing universal suffrage.

4.33 After concluding the views received during the consultation period, we believe that the proposed package stands the best possible chance of being accepted by the majority of the public, the LegCo, the CE and the Central Authorities, and can allow Hong Kong’s constitutional development to be rolled forward and will not get











(I) The timetable for implementing universal suffrage for the CE and the LegCo in future

*Opinion Polls*

5.11 Among the opinion polls conducted during the consultation period, those conducted respectively by Hong Kong Institute of Asia-Pacific Studies of the Chinese University<sup>119</sup> and Bauhinia Foundation Research Centre<sup>120</sup> indicate that about 60% of the respondents accept the NPCSC decision, which stipulates that the CE may be elected by universal suffrage in 2017, and that following that, all the members of the LegCo may be elected by universal suffrage.

*Legislative Council*

5.12 Various political parties/groups and Members of the LegCo have put forth the following relevant proposals :

- (a) DAB, Constitutional Reform Synergy, FTU, Liberal party, HKFLU, Savantas Policy Institute, Dr Hon Priscilla Leung Mei-fun and Heung Yee Kuk support the implementation of universal suffrage for the CE in 2017 and for the LegCo in 2020 in accordance with the universal suffrage timetable made clear by the NPCSC.
- (b) Democratic Party supports the implementation of universal suffrage for the CE and the LegCo in 2012. However, if

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<sup>119</sup> According to the poll conducted by Hong Kong Institute of Asia-Pacific Studies of the Chinese University between 28 January and 4 February 2010:

- (a) about 64% of the respondents accept/strongly accept the NPCSC decision which makes clear that the CE may be implemented by universal suffrage in 2017 and that following that (i.e. 2020) all the members of the LegCo may be elected by universal suffrage;
- (b) about 25% do not accept/strongly do not accept;
- (c) about 11% do not know/find it difficult to tell.

<sup>120</sup> According to the poll conducted by Bauhinia Foundation Research Centre between 29 January and 3 February 2010:

- (a) about 59% of the respondents accept/strongly accept the decision by NPCSC, which stipulates that the CE may be implemented by universal suffrage in 2017 and that following that, all the members of the LegCo may be elected by universal suffrage;
- (b) about 29% do not accept/strongly do not accept;
- (c) about 12% do not know/find it difficult to tell.

universal suffrage cannot be implemented in 2012, the Government must pledge that the CE and LegCo elections in 2017 and 2020 will be genuine universal suffrage. The nomination threshold for CE candidates must be set at a level which will allow people of different political persuasions to take part in the election. The FCs of the LegCo must be abolished.

- (c) ADPL considers that universal suffrage for the CE and the LegCo should be implemented as soon as possible. On this premise, ADPL has put forth a proposal for implementing universal suffrage. Under the situation that universal suffrage for the CE and the LegCo cannot be implemented in 2012, ADPL has also put forth a possible mid-way package, so as to break the stalemate in Hong Kong's constitutional development.
- (d) Civic Party calls upon the HKSAR Government to elect the CE by universal suffrage no later than 2017, ensure that there will be no screening mechanism, and pledge that the nomination threshold will not be higher than the 2007 requirement, and to abolish all FC seats no later than 2020 when LegCo shall be elected by universal suffrage.
- (e) Neighbourhood and Workers Service Centre ("NWSC") calls upon that the HKSAR Government should pledge that universal suffrage for the CE will be implemented by no later than 2017 and that universal suffrage for the LegCo will be implemented by no later than 2020<sup>121</sup>.
- (f) Hon Cyd Ho Sau-lan considers that the CE and all the LegCo seats should be elected according to the principles of universality and equality in 2012<sup>122</sup>.
- (g) Hon Cheung Kwok-che representing the Hong Kong Social Workers' General Union expresses the view that they will continue to strive for dual universal suffrage in 2012, which is also the aspiration of 60% of the voters of Hong Kong.

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<sup>121</sup> Please refer to Appendix I (LC20) for details.

<sup>122</sup> Please refer to Appendix I (LC13) for details.

Hence, they request the CE to continue to reflect their aspiration to the Central Authorities<sup>123</sup>.

### *Written Submissions*

- 5.13 Among the relevant written submissions received during the consultation period, there are noticeably more views which support the implementation of universal suffrage for the CE in 2017 and for the LegCo in 2020 in accordance with the NPCSC decision<sup>124</sup>.
- 5.14 There are also views that Hong Kong should implement universal suffrage for the CE and the LegCo as soon as possible. However, if dual universal suffrage cannot be implemented in 2012, on the premise that universal suffrage for the CE and the LegCo will be implemented in 2017 and 2020 respectively, the HKSAR Government should put forth proposals which can enhance the democratic elements of the elections in 2012 and 2016, so as to attain universal suffrage for the CE and the LegCo in phases<sup>125</sup>.
- 5.15 However, there are also views that dual universal suffrage should be implemented in 2012<sup>126</sup>, including that the Government should submit a request to the NPCSC to review its decision of ruling out implementation of dual universal suffrage in 2012, with a view to reopening discussion on dual universal suffrage in 2012<sup>127</sup>.

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<sup>123</sup> Please refer to Appendix I (LC16) for details.

<sup>124</sup> For example, the Hong Kong Professionals and Senior Executives Association has put forth the relevant views; please refer to Appendix III (A0234) for details.

<sup>125</sup> For example, the Alliance for Universal Suffrage has put forth relevant views; please refer to Appendix III (D099) for details.

<sup>126</sup> For example, the Hong Kong Federation of Students has put forth relevant views; please refer to Appendix III (A0109) for details.

<sup>127</sup> For example, the Civil Human Rights Front has put forth relevant views; please refer to Appendix III (A0408) for details.

(II) Whether the current-term HKSAR Government should put forth a roadmap for universal suffrage

*Opinion Polls*

5.16 Among the opinion polls conducted during the consultation period, those conducted respectively by Hong Kong Institute of Asia-Pacific Studies of the Chinese University<sup>128</sup> and the One Country Two Systems Research Institute<sup>129</sup> indicate that more respondents support that the current consultation exercise should only deal with the 2012 elections as authorized by the Central Authorities. The issue of universal suffrage for the CE in 2017 and for the LegCo in 2020 should be dealt with by the next-term Government.

*Legislative Council*

5.17 Various political parties/groups and Members of the LegCo have put forth the following relevant proposals:

- (a) DAB considers that, currently, the community has yet to form a uniform view on the methods for selecting the CE in 2017 and for forming the LegCo in 2020. There will still be sufficient time and room for discussing the two universal suffrage models in future. If we force a decision now by bundling the package for the 2012 elections with the two universal suffrage models, it will not be conducive to rolling forward constitutional development and will hamper democratic

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<sup>128</sup> According to the poll conducted by Hong Kong Institute of Asia-Pacific Studies of the Chinese University of Hong Kong between 28 January and 4 February 2010 :

- (a) about 45% of the respondents agree/strongly agree that the current public consultation on constitutional reform should only focus on the 2012 elections as authorized by the Central Authorities. The issue of the universal suffrage for the CE and the LegCo in 2017 and 2020 should be dealt with by the next-term Government;
- (b) about 43% disagree/strongly disagree;
- (c) about 12% do not know/find it difficult to tell.

<sup>129</sup> According to the poll conducted by the One Country Two Systems Research Institute between 17 and 20 February 2010:

- (a) about 57% of the respondents agree that the Government should only focus on the 2012 elections as authorized by the Central Authorities. The issue of the universal suffrage for the CE and the LegCo in 2017 and 2020 should be dealt with by the next-term Government;
- (b) about 32% disagree;
- (c) about 11% have no comment/do not know.

progress.

- (b) Democratic Party proposes that, for the purpose of implementing genuine universal suffrage, the Government should legislate the transitional electoral packages for the CE and LegCo elections in 2012, 2016, 2017 and 2020 concurrently and formulate the roadmap and timetable for implementing universal suffrage. The legislation should be brought into effect in phases, so that the CE in 2017 and the LegCo in 2020 will be returned by universal suffrage.
- (c) ADPL considers that it will not be appropriate to separate the proposed package for implementing universal suffrage from the mid-way package by focusing only on the discussion of the methods for amending the two elections in 2012. It will only be reasonable to have the future design for implementing universal suffrage confirmed before any meaningful discussion on the mid-way package can take place.
- (d) Civic Party considers that the Government should as soon as possible provide a roadmap which can lead to genuine universal suffrage.
- (e) NWSC calls upon that the Government must formulate a timetable and a roadmap for implementing universal suffrage for the CE in 2017 and for the LegCo in 2020. The Government must also pledge that universal suffrage will be implemented for the CE by no later than 2017, and for the LegCo in 2020. On the premise that universal suffrage will be implemented for the CE and the LegCo in 2017 and 2020 respectively, the HKSAR Government should put forth a package with enhanced democratic elements for the elections in 2012 and 2016, so as to attain universal suffrage for the CE and the LegCo in phases.

5.18 The following LegCo Members have put forth relevant proposals to reflect the views of the sectors which they represent:

- (a) For the architectural, surveying and planning sector represented by Prof Hon Patrick Lau Sau-shing, according to the composite results of the survey, there are views that, on the basis that universal suffrage will be implemented for the CE in

2017 and for the LegCo in 2020, a clear roadmap for universal suffrage should be formulated as soon as possible.

- (b) Heung Yee Kuk, represented by Hon Lau Wong-fat, considers that the roadmap and models for implementing universal suffrage should be dealt with by the next-term Government after thorough discussion within the community has taken place, with a view to formulating a package that will be conducive to the steady development of Hong Kong's constitutional arrangements.
- (c) Hon Cheung Kwok-che representing the Hong Kong Social Workers' General Union expresses the view that if a decision has to be taken on the 2012 constitutional reform, it is imperative that the timetable for implementing dual universal suffrage for the CE and the LegCo to be confirmed. Hence, it is crucial to ascertain whether genuine universal suffrage will be implemented in 2017 and 2020. The HKSAR Government is, therefore, requested to put forth "a timetable and roadmap for implementing democratic dual universal suffrage" for consulting the public.

### *Written Submissions*

5.19 Among the written submissions received during the consultation period, there are noticeably more views that the current-term HKSAR Government, in dealing with the two electoral methods for 2012, should not deal with the issues relating to universal suffrage (including the roadmap for universal suffrage) concurrently. The reasons include:

- (a) issues relating to the roadmap and models for implementing universal suffrage are beyond what the current-term HKSAR Government has been authorized to deal with<sup>130</sup>;
- (b) different sectors of society should focus the discussion on the electoral methods for 2012. Discussion on issues relating to universal suffrage should commence only after the two

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<sup>130</sup> For example, the Chinese General Chamber of Commerce has put forth relevant views; please refer to Appendix III (A3187) for details.



electoral methods for 2012 have been implemented<sup>131</sup>.

5.20 However, there are also views that the HKSAR Government should put forth the roadmap for universal suffrage concurrently. The reasons include:

- (a) if universal suffrage cannot be implemented in 2012, the Central Authorities and the HKSAR Government should put forth clear proposals and steps for attaining universal suffrage<sup>132</sup>.
- (b) the absence of a roadmap for universal suffrage will impose a heavy burden on the CE returned in 2017 as he or she will have to make substantial changes to the LegCo election in only three years' time<sup>133</sup>.

(III) How the function constituency seats should be dealt with when universal suffrage for the Legislative Council is implemented

### *Opinion Polls*

5.21 Among the opinion polls conducted during the consultation period, the one conducted by Hong Kong Institute of Asia-Pacific Studies of the Chinese University indicates that about half of the respondents consider that the FCs should be abolished when universal suffrage for the LegCo is implemented, while about 37% consider that the FCs should be retained<sup>134</sup>.

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<sup>131</sup> For example, the Hong Kong General Chamber of Commerce has put forth relevant views; please refer to Appendix III (A3259) for details.

<sup>132</sup> For example, the Alliance for Universal Suffrage has put forth relevant views; please refer to Appendix III (D099) for details.

<sup>133</sup> For example, the Law Society of Hong Kong has put forth relevant views; please refer to Appendix III (A2939) for details.

<sup>134</sup> According to the poll conducted by Hong Kong Institute of Asia-Pacific Studies of the Chinese University between 28 January and 4 February 2010:

- (a) about 51% of the respondents consider that FC elections should be abolished when universal suffrage for the LegCo is implemented, about 37% consider that FC elections should be retained, about 12% do not know/find it difficult to tell;
- (b) among those who consider that FCs should be abolished, about 44%, 27%, 12% and 8% consider that FCs should be abolished in 2012, 2016, 2020 and after 2020 respectively;
- (c) among those who consider that FCs should be retained, about 62% consider that the existing electoral method should be reformed, 30% consider that reform is not necessary, 8% do not know/find it difficult to tell.

5.22 However, the poll conducted jointly by the Public Opinion Programme at the University of Hong Kong and the Radio Television Hong Kong indicates that more respondents (about 40%) consider that the FCs of the LegCo should not be abolished, while about 36% consider that the FCs should be abolished<sup>135</sup>.

### *Legislative Council*

5.23 Various political parties/groups and Members of the LegCo have put forth the following relevant proposals:

- (a) DAB considers that there are diverse views and major differences within the Hong Kong community on the issue of how the FCs should be dealt with when universal suffrage for all the members of the LegCo is implemented. At the current stage, it will not be appropriate to make a hasty decision. It will be proper to further discuss the issue in future, with a view to narrowing differences progressively and reaching consensus. DAB considers that there is no absolute standard for universal suffrage models around the world. Universal suffrage does not necessarily mean direct elections through GCs. Any arrangements that comply with the Basic Law can be considered.
- (b) Constitutional Reform Synergy adopts an open attitude with regard to the future of the FCs and considers that FCs and implementation of universal suffrage are not mutually exclusive. Various sectors of the community can discuss the issue in an open and rational manner in future and explore different proposals for expanding the electorate base of the FCs, so as to make the FC elections comply with the principles of universality and equality. The aim of universal suffrage can then be attained in a gradual and orderly manner.

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<sup>135</sup> According to the poll conducted jointly by the Public Opinion Programme at the University of Hong Kong and the Radio Television Hong Kong between 18 and 21 January 2010:

- (a) about 40% of the respondents consider that FCs of the LegCo should not be abolished;
- (b) about 36% consider that FCs of the LegCo should be abolished;
- (c) about 24% do not know/find it difficult to tell/have no comment.

- (c) FTU considers that, in the long run, the electorate base of the FCs should be broadened in a progressive manner, so as to achieve universal and balanced participation ultimately.
- (d) HKFLU considers that the community needs time to consider the long-term development of the FCs. The work of FC Members in the legislature and their service provided to the community should not be written off. They are able to reflect the views of various sectors and balance the interests of different sectors of society.
- (e) Savantas Policy Institute proposes that the ultimate goals of reforming the LegCo election methods are to increase the number of seats to 80 and to abolish all FCs in 2020 in one go and implement the “one-person-two-votes” model, i.e. one vote being the existing vote for direct GC elections and the other for election through a territory-wide, political party/group list system.
- (f) Democratic Party proposes that each voter should have two votes, one vote in direct GC elections and the other in a territory-wide single constituency election (proportional representation system). The number of members returned by these two elections should be half-and-half.
- (g) ADPL considers that all FCs should be abolished when universal suffrage for the LegCo is implemented. The “one-person-two-votes” model should be adopted whereby each voter will have two votes: one vote in the GC election (half of the LegCo seats to be returned through direct GC elections under the “single-seat-single-vote” system), and the other vote in an election whereby the whole territory will form a single constituency, under which different political parties/groups, organizations or individuals can form their own lists of candidates and the number of seats will be allocated according to the proportion of votes that each list receives.
- (h) Civic Party considers that the FCs should be abolished when universal suffrage for the LegCo is implemented.
- (i) NWSC calls upon that all FC seats be abolished when

universal suffrage for the LegCo is implemented. The right to nominate, stand for election and vote with regard to the LegCo election must conform to the internationally recognized principles of universality and equality.

- (j) Dr Hon Philip Wong Yu-hong considers that from the historical and practical perspective FCs in Hong Kong have their value of existence. The retention of FCs is warranted by the unique situation of Hong Kong. This is also consistent with the constitutional position of Hong Kong. Regarding how the FCs can be improved or whether they should be retained or abolished, an appropriate solution can certainly be found in due course in light of the actual situation of Hong Kong and in accordance with the principle of gradual and orderly progress<sup>136</sup>.
- (k) Hon Paul Tse Wai-chun considers that for the purpose of maintaining the representativeness of the LegCo and the principle of balanced participation, FCs are worth retaining. However, the existing model and electoral method for the FCs are considered generally to be inconsistent with the principles of universality and equality under the relevant international covenant. Hence, he proposes that a comprehensive review and reform of the existing FC system should be carried out as soon as possible, so as to make the FCs comply with the principles of universality and equality, regardless of whether the majority of Hong Kong people can reach consensus on retaining or abolishing the FCs eventually.
- (l) Dr Hon Priscilla Leung Mei-fun proposes that a “three-step mechanism” be adopted. The reform of the FCs should be implemented in three phases, with a view to attaining the goal of implementing universal suffrage for the LegCo in a progressive manner. If the “1+30” model is implemented properly, all FCs can be abolished and all seats can be returned by direct elections.
- (m) Hon Cyd Ho Sau-lan proposes that half of the LegCo seats be returned through the single-seat-single-vote system, and the other half be returned through the proportional representation

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<sup>136</sup> Please refer to Appendix I (LC27) for details.

system (with the whole territory as a single constituency).

5.24 The following LegCo Members have put forth relevant proposals to reflect the views of the sectors which they represent:

- (a) The wholesale and retail sector, represented by Hon Vincent Fang Kang, considers that the FCs should be retained when universal suffrage for LegCo is implemented.
- (b) For the tourism sector represented by Hon Paul Tse Wai-chun, according to the survey results, more than 70% of the respondents do not agree that the FC seat for tourism should be abolished for the LegCo election in 2012 and thereafter; while more than 10% agree. More than 60% of the respondents agree that the electorate base of the LegCo FC seat for tourism should be broadened, while more than 20% do not agree. Almost half of the respondents agree that, based on the principle of fairness, “one-person-one-vote” should be adopted (i.e. each voter will only be allowed to cast one vote in either the GC election or the FC election); while more than 20% do not agree.
- (c) For the architectural, surveying and planning sector represented by Prof Hon Patrick Lau Sau-shing, according to the composite results of the survey, the mainstream view is that the FCs should not be retained when universal suffrage for the LegCo is implemented.
- (d) Heung Yee Kuk, represented by Hon Lau Wong-fat, considers that the FC electoral system was established in the light of the actual situation of Hong Kong. Different sectors, groups and professionals of Hong Kong are the important components of Hong Kong’s social development. Hence, it is necessary for them to be part of the constitutional structure. Only then can the interests of different sectors of society be balanced properly. The existing FCs have their value of existence.
- (e) The agriculture and fisheries sector, represented by Hon Wong Yung-kan, does not agree that getting rid of the FCs is the only way to implement universal suffrage for the LegCo. FC seats can also be a component part of the universal suffrage system if the electoral method for FCs is improved.

- (f) Hon Cheung Kwok-che representing the Hong Kong Social Workers' General Union expresses the view that all FC seats should be abolished in 2020.

### *Written Submissions*

- 5.25 Among the relevant written submissions received during the public consultation period, there are more views that, when universal suffrage is implemented for the LegCo, the FC seats should be retained, but the electoral model should be changed, so as to comply with the principles of universality and equality<sup>137</sup>.
- 5.26 There are also views that the FC seats should be abolished when universal suffrage for the LegCo is implemented, and that all seats should be returned by direct election<sup>138</sup>, including the “one-person-two-votes”<sup>139</sup> and “one-person-multiple-votes” models.

### *Conclusion*

- 5.27 Overall speaking, different sectors of the community, as well as various political parties/groups and Members of the LegCo, still have extremely diverse views on how the FCs should be dealt with in future and need time to discuss the issue thoroughly, with a view to forging consensus. Since the current-term HKSAR Government has only been authorized by the NPCSC to deal with the two electoral methods in 2012, we have already put on record the different proposals put forth recently within the community, and recommend the next-term HKSAR Government to follow up actively and consider the relevant proposals seriously.

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<sup>137</sup> For example, the Hong Kong General Chamber of Commerce has put forth relevant views; please refer to Appendix III (A3259) for details.

<sup>138</sup> For example, the Alliance for Universal Suffrage has put forth relevant views and proposes that the 2020 LegCo has 100 members, all elected through universal suffrage. There will be no functional constituencies. One half (50 seats) of the LegCo will be elected by proportional representation, with the whole Hong Kong as one constituency. The other 50 seats will be elected also by proportional representation, with Hong Kong divided into 7 constituencies; please refer to Appendix III (D099) for details.

<sup>139</sup> For example, the Hong Kong Democratic Foundation suggests that LegCo be elected by 35 GC seats and 35 Single-territory seats by one-person-two-votes; please refer to Appendix III (A0442) and (A4185) for details.

## Roll Forward Democracy in 2012 to Pave Way for Implementing Universal Suffrage

5.28 After summarizing the views received during the consultation period, we consider that the Hong Kong community has already achieved considerable consensus on rolling forward Hong Kong's constitutional development and no more stalemate in 2012, so as to pave the way for implementing universal suffrage for the CE and the LegCo in 2017 and 2020:

- (a) The opinion polls conducted respectively by Hong Kong Institute of Asia-Pacific Studies of the Chinese University<sup>140</sup>, and the One Country Two Systems Research Institute<sup>141</sup> indicate that more than half of the respondents support the LegCo endorsing the Government's proposed package for the 2012 elections.
- (b) The political parties/groups of the LegCo, including DAB, Constitutional Reform Synergy, FTU, Liberal Party, Savantas Policy Institute, ADPL and Heung Yee Kuk have expressed the view that we should adopt a rational and pragmatic attitude in seeking consensus within the community, so that Hong Kong's constitutional development can move steadily towards universal suffrage.
- (c) The 18 District Councils have passed motions expressing support for rolling forward Hong Kong's constitutional development towards universal suffrage in accordance with the NPCSC decision. There should be no more stalemate in

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<sup>140</sup> According to the poll conducted by Hong Kong Institute of Asia-Pacific Studies, the Chinese University of Hong Kong between 28 January and 4 February 2010:

- (a) about 51% of the respondents support/strongly support that LegCo Members should endorse the Government's proposed package for the 2012 elections;
- (b) about 29% oppose/strongly oppose ;
- (c) about 20% do not know/find it difficult to tell.

<sup>141</sup> According to the poll conducted by the One Country Two Systems Research Institute between 17 and 20 February 2010:

- (a) about 59% of the respondents consider that the LegCo should endorse the Government's proposed package for the 2012 elections ;
- (b) about 26% consider that the LegCo should not do so;
- (c) about 15% have no comment/do not know.

constitutional development.

(d) About 1.6 million signatures of the public have expressed support for rolling forward constitutional development<sup>142</sup>.

5.29 Some political parties, organizations and individuals have formed different alliances by uniting the power of different sectors of the community<sup>143</sup> to promote rational discussion on constitutional arrangements with a pragmatic attitude. Although the aspirations of these alliances are not entirely the same, they have one common goal, which is to roll forward Hong Kong's constitutional development in moving towards universal suffrage and to break the stalemate. The HKSAR Government has engaged in active dialogue with them and listened to their views, in order that we forge consensus within the community.

5.30 However, there are individual political parties of the LegCo that have relinquished rational discussion and decided to conduct the so-called "referendum" by resigning from LegCo. We consider that this is not necessary, and that it will not help forge consensus within the community on Hong Kong's constitutional development.

5.31 The HKSAR Government would like to emphasize again that conducting the so-called "referendum" on the issue of constitutional development is not consistent with the provisions relating to amendments to the electoral methods for the CE and the LegCo in the Basic Law and the NPCSC interpretation and decision. Conducting any form of so-called "referendum" in Hong Kong will have no legal basis or effect whatsoever, and will not be recognized by the HKSAR Government.

5.32 The HKSAR Government will only act in accordance with the procedures as stipulated in the Basic Law regarding amendments to the electoral methods for the CE and the LegCo for 2012, and will strive to secure consensus among the three parties concerned, i.e. the proposals put forth by the HKSAR Government must obtain the support of a two-thirds majority of all LegCo Members, consent of

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<sup>142</sup> Collected by the Alliance for Constitutional Development; please refer to Appendix III (C001)-(C125).

<sup>143</sup> For example, the Alliance for Constitutional Development, the Constitutional Reform Synergy and the Alliance for Universal Suffrage.



the CE and endorsement of the NPCSC. The procedures for amending the two electoral methods for 2012 will not be affected by the results of the by-election following the resignations of the five LegCo Members.

5.33 However, the HKSAR Government understands that some political parties/groups of LegCo, organizations and individuals in the community hope to first discuss and formulate the roadmap for universal suffrage (particularly the issue on how the FCs should be dealt with when universal suffrage for the LegCo is implemented), before discussing the two electoral methods for 2012.

5.34 The consistent position of HKSAR Government is that the HKSAR Government has only been authorized by the NPCSC decision of 2007 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.

5.35 The aim of the HKSAR Government is to roll forward Hong Kong's democratic development in 2012 by injecting new democratic elements into the two electoral methods, so as to pave the way for implementing universal suffrage for the CE and the LegCo in 2017 and 2020 respectively. The Central Authorities and the HKSAR Government appreciate fully the public aspiration for universal suffrage. In this connection, the HKSAR Government makes it clear that:

(a) The universal suffrage timetable stipulated in the NPCSC decision of 2007 is solemn and bears constitutional and legal effect.

(b) At an appropriate time prior to 2017, the package for implementing universal suffrage for the CE to be put forth by the HKSAR Government will include that a broadly representative "nominating committee" (which shall be formed with reference to the composition of the "Election Committee" in accordance with Basic Law) 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.

- (c) As to how the FCs should be dealt with when universal suffrage for the LegCo is implemented, this is indeed an issue which the Hong Kong community needs to forge consensus on. Given that there are still extremely diverse views in Hong Kong on this issue, we hope that in the next few years the Hong Kong community can work together to consider and forge consensus with a rational, pragmatic and accommodating attitude on whether the FCs should be abolished or retained when universal suffrage for the LegCo is implemented.

## **Chapter Six : The Next Step**

- 6.01 The HKSAR Government plans to strive to obtain the LegCo's endorsement of the draft motions concerning the amendment to the method for the selection of the CE in 2012 and the amendment to the method for the formation of the LegCo in 2012 before the summer recess of the LegCo starting mid-July this year. To facilitate discussion, the two draft motions are provided in Annex II and Annex III respectively.
- 6.02 The amendments appended to the motions are the "bills" referred to in the NPCSC Interpretation of April 2004. The amendments will be submitted to the LegCo by way of motions. The amendments should have effect only after they have had the endorsement of a two-thirds majority of all the members of the LegCo, the consent of the CE, and after they have been reported to the NPCSC for approval or for the record. This arrangement is consistent with the relevant procedures prescribed in the NPCSC interpretation.
- 6.03 After the relevant proposals have received the endorsement of the LegCo, the consent of the CE, and after they have been reported to the NPCSC for approval or for the record, we envisage introducing the Chief Executive Election (Amendment) Bill and the Legislative Council (Amendment) Bill into the LegCo in the Autumn of 2010 and to prescribe, under local legislation, the detailed arrangements regarding the methods for selecting the CE and for forming the LegCo. We will strive to have the Chief Executive Election (Amendment) Bill and the Legislative Council (Amendment) Bill passed by the LegCo before May 2011, so that the relevant subsidiary legislation could be amended respectively by the Executive Council and the Electoral Affairs Commission thereafter, and the Election Committee subsector elections, the CE election and the LegCo election can be held in December 2011, March 2012, and September 2012 respectively.

- 6.04 After the three-month consultation period, the HKSAR Government has found the appropriate point of balance amidst the various points of view expressed by the community and put forth this package of proposals for the methods for selecting the CE and for forming the LegCo in 2012. The aim of the package is to inject new democratic elements into the two electoral methods through the participation of elected District Council members who have a broad electorate base, so that our electoral system can move toward universal suffrage in a concrete manner and with a clear direction.
- 6.05 Public opinion is crystal clear, that is, Hong Kong's constitutional development should be rolled forward in 2012 and no stalemate should be allowed. This can pave the way for implementing universal suffrage in 2017 and 2020.
- 6.06 According to the results of various opinion polls, half of the respondents support the directions put forth in the consultation document regarding amendments to the two electoral methods for 2012. On this basis, in order to obtain the LegCo's endorsement of the proposed package, we have responded to the aspirations raised by different sectors of the community and some political parties/groups of the LegCo.
- 6.07 Under the framework set out by the NPCSC decision, we have also responded to the aspiration for universal suffrage by making it clear that the HKSAR Government is firmly committed to and has a clear vision for implementing universal suffrage in accordance with the universal suffrage timetable stipulated by the NPCSC decision.
- 6.08 If the LegCo endorses the proposed package for the 2012 elections put forth by the HKSAR Government, it can roll forward democratic development for Hong Kong and pave the way for determining the universal suffrage models for 2017 and 2020 in future.
- 6.09 By its very nature, constitutional development is an issue which attracts controversy. However, if LegCo Members and members from different sectors of the community can work in the spirit of seeking consensus while accommodating differences, and handle the issue with a rational and pragmatic attitude, we firmly believe that, with the wisdom and endeavour of the people of Hong Kong,

we can roll forward the democratic development of Hong Kong's constitutional arrangements and attain universal suffrage in accordance with the NPCSC decision.

Constitutional and Mainland Affairs Bureau  
April 2010

**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.



**Draft Motion to be Put by the HKSAR Government  
to the Legislative Council Concerning the Amendment to the Method  
for the Selection of the Chief Executive of the  
Hong Kong Special Administrative Region**

Pursuant to Article 7 of Annex I to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, 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 of 6 April 2004, and 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 and for Forming the Legislative Council of the Hong Kong Special Administrative Region in the year 2012 and on Issues relating to Universal Suffrage of 29 December 2007, the "(Draft) Amendment to Annex I to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China Concerning the Method for the Selection of the Chief Executive of the Hong Kong Special Administrative Region" appended to this Motion is hereby endorsed by this Council by a two-thirds majority of all Members.

**(Draft) Amendment to Annex I to the Basic Law  
of the Hong Kong Special Administrative Region  
of the People's Republic of China Concerning the  
Method for the Selection of the Chief Executive of the  
Hong Kong Special Administrative Region**

1. The Election Committee to elect the fourth term Chief Executive in 2012 shall be composed of 1200 members from the following sectors:

Industrial, commercial and financial sectors	300
The professions	300
Labour, social services, religious and other sectors	300
Members of the Legislative Council, Hong Kong deputies to the National People's Congress, representatives of members of the District Councils, representatives of Hong Kong members of the National Committee of the Chinese People's Political Consultative Conference, and representatives of the Heung Yee Kuk	300

The term of office of the Election Committee shall be five years.

2. Candidates for the office of Chief Executive may be nominated jointly by not less than 150 members of the Election Committee. Each member may nominate only one candidate.

**Draft Motion to be Put by the HKSAR Government  
to the Legislative Council Concerning the Amendment to the Method  
for the Formation of the Legislative Council of the  
Hong Kong Special Administrative Region and its Voting Procedures**

Pursuant to 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 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 of 6 April 2004, and 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 and for Forming the Legislative Council of the Hong Kong Special Administrative Region in the year 2012 and on Issues relating to Universal Suffrage of 29 December 2007, the "(Draft) Amendment to Annex II to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China Concerning the Method for the Formation of the Legislative Council of the Hong Kong Special Administrative Region and its Voting Procedures" appended to this Motion is hereby endorsed by this Council by a two-thirds majority of all Members.

**(Draft) Amendment to Annex II to the Basic Law  
of the Hong Kong Special Administrative Region  
of the People's Republic of China Concerning the  
Method for the Formation of the Legislative Council of the  
Hong Kong Special Administrative Region and its Voting Procedures**

1. The fifth term Legislative Council in the year 2012 shall be composed of 70 members, and the composition shall be as follows:

Members returned by functional constituencies	35
Members returned by geographical constituencies through direct elections	35