

**Bills Committee on the Chief Executive Election and
Legislative Council Election (Miscellaneous Amendments) Bill 2006**

Follow up to meeting on 17 March 2006

(a) Overseas practices in respect of setting an upper limit on the number of subscribers for nominating candidates for head of state/government

According to available information, in some overseas countries, there is no specific requirement on the number of subscribers for nominating a candidate for head of state/government. For example, in the United Kingdom, under the parliamentary system of government, the leader of the majority party in the House of Commons, who is a member of Parliament, will be invited by the Monarch to be the Prime Minister. Likewise, in Japan, the Prime Minister is usually the leader of the ruling party in the Diet, and is elected by a simple majority of members in both Houses of the Diet.

2. In some other countries, we note that there is a requirement on the minimum, but not the maximum, number of subscribers to nominate a candidate to stand in an election. The arrangements in respect of two such jurisdictions are described below.

Austria

3. In Austria, the President is the Head of State and is elected by universal suffrage. A presidential candidate must secure the nominations of a minimum of 6 000 Austrian electors living either in Austria or abroad.

The United States

4. In the United States, presidential candidates can be nominated by political parties or can be independents. For independent candidates, they are required to meet the individual ballot requirement of each state, which is generally in the form of a

minimum number of signatures of qualified voters of the state. Taking the 2004 presidential election as an example, in Texas, a person must secure at least 65 000 signatures from eligible voters within 60 days to be eligible for being an independent candidate.

(b) Whether setting an upper limit on the number of subscribers through local legislation would contravene the Basic Law?

5. Annex I of the Basic Law provides that candidates for the office of the Chief Executive may be nominated jointly by not less than 100 members of the Election Committee. Annex I does not contain any provision on an upper limit on the number of subscribers a candidate may have.

6. The Constitutional Development Task Force had considered the issue of setting an upper limit on the number of subscribers, and recommended in its Fifth Report that we should study in detail whether setting such an upper limit would unduly restrain Election Committee members from exercising their right to nominate candidates. The Administration has accepted the Task Force's recommendation and considers that such a limit should not be set. If we were to consider setting an upper limit on the number of subscribers, we could examine the feasibility of introducing such a requirement through local legislation. However, as stated above, our policy is not to make any such provision.

Constitutional Affairs Bureau
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