

政制事務局局長
政府總部
香港下環畢打街



LC Paper No. CB(2)1171/05-06(01)

SECRETARY FOR CONSTITUTIONAL AFFAIRS
GOVERNMENT SECRETARIAT
LOWER ALBERT ROAD
HONG KONG

本署檔號 Our Ref.: C1/1/1, C5/1, C5/2
來函檔號 Your Ref.:

電話 Tel: 2810 2368
圖文傳真 Fax: 2840 1528

16 February 2006

Mrs Percy Ma
Clerk to Panel
LegCo Panel on Constitutional Affairs
Legislative Council Building
8 Jackson Road
Central
Hong Kong
(Fax No. 2509 9055)

Dear Mrs Ma,

**Legislative Council Panel on Constitutional Affairs
Follow up to Meeting on 16 January**

At the last Panel meeting on 16 January, Members discussed the Administration's proposed electoral arrangements in the event that only one Chief Executive (CE) candidate is validly nominated. To recap, the proposed arrangements are as follows:

- (i) when voting, Election Committee (EC) members may indicate in the ballot paper either to "support" or "not support" the sole candidate;
- (ii) the sole candidate shall be returned at the election if the number of "support votes" he obtains constitutes more than half of the total number of valid votes cast. Under existing legislation, any ballot paper which is unmarked, mutilated or on which there is any writing or mark is regarded as invalid vote; and
- (iii) if the number of "support votes" obtained by the candidate falls short of more than half of the total valid votes cast, there shall be a new round of nominations.

During the discussion, Members requested for information on overseas practices regarding the electoral arrangements in the event of single candidacy, particularly on the measures to provide some finality to the electoral process, and the handling of blank ballots in vote counting. Some readily available information is set out below for Members' reference.

Countries where sole candidate is elected *ipso facto*

According to available information, it is not uncommon in overseas countries that, if there is only one candidate standing for an election, the sole candidate will be elected *ipso facto*. For example, in Finland and Ireland, in a presidential election, if there is only one candidate, the sole candidate will be elected *ipso facto*.

In the UK House of Commons elections, if there is an uncontested seat, the sole candidate will be elected *ipso facto*. Similarly, in Australia, if there is only one candidate standing for election in a single seat constituency in a House of Representatives election, that candidate will be duly elected.

Electoral arrangements in some countries where election proceedings continue in the event of single candidacy

In some other countries, election proceedings will continue in the event of single candidacy. The arrangements in respect of three such jurisdictions are described below.

France

In a French presidential election, if there is only one candidate, the election shall continue with one round of voting. Voters could indicate "support" of the candidate in the ballot paper. The ballot paper does not provide for voters to indicate that they do not support the sole candidate. Voters who do not support the sole candidate may cast a blank ballot or do not vote at all.

Under the Electoral Code, blank ballot papers, ballot papers bearing irregular markings or inscriptions, or ballot papers that have been damaged are regarded as invalid. There is no threshold on the minimum number of votes required for a candidate to be elected.

Austria

The electoral arrangement in the event of single candidacy adopted in Austria is similar to that in France. Voters could indicate “support” of the candidate in the ballot paper. The ballot paper does not provide for voters to indicate that they do not support the sole candidate. Voters who do not support the sole candidate may cast a blank ballot or do not vote at all.

Invalid votes, including all blank ballot papers, mutilated ballot papers or ballot papers bearing irregular markings or inscriptions, will not be counted. There is no threshold on the minimum number of votes required for a candidate to be elected.

Germany

The German President is elected by the Federal Convention. The Federal Convention consists of all members of the Bundestag (the parliament) and an equal number of delegates chosen by the legislatures of the 16 Laender (states). Presidential election would still proceed even if there is only one candidate.

If there is only one presidential candidate, the ballot paper will carry “tick-off alternatives” (i.e. “yes”, “no” or “abstention”) under the name of the sole candidate. Blank ballot papers, ballot papers bearing irregular markings, or ballot papers on which more than one box is ticked off are regarded as invalid.

The sole candidate will be elected if the number of “yes” votes he obtains constitutes an absolute majority (i.e. more than half of the number of members of the Federal Convention). If such majority is not obtained in the first two rounds of voting, it will suffice for the sole candidate to get elected if the number of “yes” votes he obtains constitutes a relative majority in the third round of voting. The third round of voting will be final.

Conclusion

Different jurisdictions adopt different electoral arrangements to suit their specific needs. It would not be appropriate to compare one or two specific features of individual electoral systems. When deciding on the appropriate electoral system to be adopted, we should consider the arrangements as a whole.

We are now finalizing the details of the electoral arrangements in the event that there is only one CE candidate. We are considering the suggestion put forth by some Members that if the sole candidate is unable to obtain more than half of the valid votes cast, and if, after nominations have been re-opened, there is still only one candidate, some finality should be provided for in the electoral arrangements.

Yours sincerely,



(Joseph Y T LAI)

for Secretary for Constitutional Affairs