

**Commission on Strategic Development
Committee on Governance and Political Development**

**Possible Models for Selecting the Chief Executive
by Universal Suffrage**

Introduction

At the last meeting of the Committee, Members concluded discussions on the concepts and principles relating to universal suffrage (Paper CSD/GC/6A/2006). According to the conclusions, in discussing possible models for electing the Chief Executive (“CE”) and the Legislative Council (“LegCo”) by universal suffrage, any proposal put forward should comply with:

- (1) the basic policies of the State regarding Hong Kong;
- (2) the four principles on constitutional development, namely, meeting the interests of different sectors of society, facilitating the development of the capitalist economy, gradual and orderly progress and being appropriate to the actual situation in Hong Kong;
- (3) the principle of an executive-led system; and
- (4) the principles of universal and equal suffrage.

2. At previous meetings, Members have explored on a preliminary basis possible models for selecting the CE when the ultimate aim of universal suffrage is attained. A summary of the discussions has been provided in paragraphs 29-33 of Paper CSD/GC/6A/2006. This paper provides background information to facilitate Members’ further discussion of possible models for selecting the CE by universal suffrage in accordance with the Basic Law and the concepts and principles relating to universal suffrage.

Provisions in the Basic Law

3. Article 45 of the Basic Law provides that “the CE of the Hong Kong Special Administrative Region (“HKSAR”) shall be selected by election or through consultations held locally and be appointed by the Central People’s Government (“CPG”). The method for selecting the CE shall be specified in the light of the actual situation in the HKSAR and in accordance with the principle of gradual and orderly progress. The ultimate aim is the selection of the CE by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures.” According to this provision, the selection and appointment of the CE involves three steps when universal suffrage is attained:

- (a) nomination by a broadly representative nominating committee in accordance with democratic procedures;
- (b) selection by universal suffrage following nomination; and
- (c) appointment by the CPG.

4. According to Article 45 of the Basic Law, the composition of the nominating committee should be broadly representative and nominations should be made in accordance with democratic procedures. However, the Basic Law has not stipulated the specific composition of the nominating committee, or the method of nomination in accordance with democratic procedures.

Key issues to be considered

5. In discussing possible models for selecting the CE by universal suffrage, we suggest that the following four key issues should be considered:

- (1) composition of the nominating committee;
- (2) method of nomination;
- (3) method for selecting the CE by universal suffrage following nomination; and

- (4) preparation for forming the nominating committee and smooth transition from the original electoral system to the new system.

6. When consulting the public on the two electoral methods for 2007/08, the Constitutional Development Task Force received some views on models for selecting the CE by universal suffrage. In accordance with the Decision of the Standing Committee of the National People's Congress of April 2004, the CE election in 2007 shall not be by means of universal suffrage. Hence, views on models for selecting the CE by universal suffrage did not fall within the scope of the public consultation undertaken by the Task Force. However, to fully reflect the public views received, the Task Force had, with the consent of the concerned individuals/organizations, included the relevant submissions in the appendixes to the Reports. These views are summarized at Annex I for Members' reference.

7. Moreover, according to a paper provided by the LegCo Secretariat to the LegCo Panel on Constitutional Affairs in June 2006, the LegCo had received some written submissions relating to the selection of CE by universal suffrage. These views are summarized at Annex II for Members' reference.

8. The relevant written submissions received from individual Members by the Committee Secretariat in the past few months are summarized at Annex III.

Composition of the Nominating Committee

9. In examining the composition of the nominating committee, apart from considering how to ensure that the requirement of "broadly representative" as stipulated in the Basic Law can be complied with, Members generally agreed at the last meeting that consideration should be given to the principles of "meeting the interests of different sectors of society", "facilitating the development of the capitalist economy", etc.

10. In the submissions received, views on the composition of the nominating committee can be broadly divided into the following categories:

- (1) To use the composition of the Election Committee¹ prescribed in Annex I to the Basic Law as a blueprint for that of the nominating committee.

As for the number of members of the nominating committee, there are views that reference can be made to that of the existing Election Committee, i.e. to remain at 800. There are also views that it should be increased, for example, to 1 000, 1 200, 1 600 or 5 000.

- (2) To form the nominating committee by the 60 LegCo Members². There are also views that the nominating committee could authorize the LegCo to nominate candidates with subscription from five LegCo Members.
- (3) To form the nominating committee by direct or indirect elections. For example, at least half of its members should be elected by universal suffrage in geographical constituencies.

11. At the same time, there are views that it is not necessary to set up a nominating committee. For example, a CE candidate should first be nominated by a certain number of registered voters, and then elected by universal suffrage on the basis of “one-person-one-vote”. However, this proposal is obviously inconsistent with the requirement under Article 45 of the Basic Law that the selection of the CE should be “by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures”.

¹ The Election Committee (“EC”) is composed of members from 4 sectors, which are further divided into 38 subsectors. Except for the National People’s Congress, Legislative Council and religious subsectors, the EC members from the remaining 35 subsectors are returned by elections in accordance with the number of seats allocated to each subsector.

² Currently, the Legislative Council is composed of 30 members returned by geographical constituencies through direct election and 30 members by functional constituencies.

Method of Nomination

Number of subscribers for nominating candidates

12. Regarding the method of nominating a CE candidate by the nominating committee, one of the key issues to be considered is the number of subscribers required for nominating a candidate. In deciding the nomination threshold, we consider that the following factors should be taken into account:

- (1) complying with the requirement of “nomination in accordance with democratic procedures” as stipulated in the Basic Law;
- (2) ensuring that candidates have wide support and sufficient legitimacy; and
- (3) providing aspiring individuals with the opportunity to be nominated.

13. At present, 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 (i.e. 12.5%) of the Election Committee. Each member may nominate only one candidate. Taking the present nomination threshold for CE candidacy as the basis, suggestions in the submissions received can be broadly categorized as follows:

- (1) maintaining the nomination threshold at 12.5% (i.e. the maximum number of candidates will be 8);
- (2) lowering the nomination threshold, for example, to 5% (i.e. the maximum number of candidates will be 20); and
- (3) raising the nomination threshold, for example, to 25% (i.e. the maximum number of candidates will be 4).

14. It is proposed in all the relevant submissions received that one member should nominate only one candidate.

Method of Universal Suffrage after Nomination

15. It is proposed in all the submissions as provided in Annexes I and II to this paper that, after the nomination of candidates, the CE should be elected by universal suffrage on the basis of “one-person-one-vote”. As for specific details for the election, there are relatively fewer views. It has been proposed that a candidate should obtain more than half of the valid votes cast to be elected).

Preparation for forming the nominating committee and smooth transition from the original to the new electoral system

16. Currently, the CE is elected by a broadly representative Election Committee in accordance with Annex I to the Basic Law. Article 45 of the Basic Law stipulates that the ultimate aim is the selection of the CE by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures.

17. When implementing universal suffrage, regardless of which method for forming the nominating committee is to be adopted, we must ensure that there is a smooth transition from the original system of selecting the CE by the Election Committee to a new system of selecting the CE by universal suffrage upon nomination by the nominating committee. For example, we must consider how the terms of the Election Committee and the nominating committee can tie in so as to avoid a time gap.

18. After deciding on the composition of the nominating committee, we must allow adequate time for carrying out the necessary preparation work, for example, to amend Annex I to the Basic Law and local legislation in order to provide the legal framework for the nomination committee to be formed.

Conclusion

19. The Government does not have any established position on the issues set out in paragraphs 9 - 18 above, and is prepared to listen to Members' views.

Constitutional Affairs Bureau
July 2006

**Public views on possible models for
selecting the Chief Executive by universal suffrage**

**Written submissions received by
the Constitutional Development Task Force**

<u>Organisations/individuals making the submissions</u> (Submission No. ^{Note})	<u>Date of Submission</u>	<u>Summary of Views</u>
Hon Eric K C LI (Submission A024 in Annex 1 to the First Report of the Constitutional Development Task Force)	4.1.2004	<ul style="list-style-type: none">• First Phase: turn the 800-member Election Committee into a nominating committee and elect no more than 3 candidates for universal suffrage.• Second and Final Phase: full universal suffrage.
SynergyNet (Submission A021 in Annex 1 to the First Report of the Constitutional Development Task Force)	13.2.2004	<ul style="list-style-type: none">• Any 500 registered voters can together make a preliminary nomination of a candidate for the CE post. Each registered voter can make only one such nomination.• Preliminary nominees will be scrutinized by the Nomination Committee. Only those preliminary nominees who obtain the endorsement of a minimum of 100 members of the Nomination Committee will be put forward for election by universal suffrage. Each Committee member can nominate only one preliminary nominee. In practice, this means a maximum of 8 preliminary candidates to be 'screened in' by the Nomination Committee for

<u>Organisations/individuals making the submissions</u> (Submission No. ^{Note})	<u>Date of Submission</u>	<u>Summary of Views</u>
Hong Kong Democratic Foundation and Power for Democracy (Submission A020 in Annex 1 to the First Report of the Constitutional Development Task Force)	13.2.2004	<p>popular election.</p> <ul style="list-style-type: none"> • The total membership of the Nomination Committee can be 800 or an enlarged number such as 1 000 – 1 200. Members of the Nomination Committee from different sectors should be elected on the basis of one-person-one-vote within the sectors to which they belong. • Option 1: Formal candidacy for the CE requires nomination by a certain number of Election Committee members. A low threshold such as 50 can facilitate candidates from various political backgrounds to stand for election. Election of the CE by universal suffrage after nomination by the Election Committee. • Option 2: A CE candidate may qualify for formal candidacy through the collection of a certain number of supporting signatures from registered voters (say, 50 000 – 100 000), followed by election by universal suffrage.

<u>Organisations/individuals making the submissions</u> (Submission No. ^{Note})	<u>Date of Submission</u>	<u>Summary of Views</u>
Article 45 Concern Group (Submission A004 in Annex 1 to the First Report of the Constitutional Development Task Force)	23.2.2004	Either to convert the present Election Committee to a nomination committee whose only function is to nominate any candidate with the endorsement of say, 5% of its members, or to give power to the Legislative Council (LegCo) to nominate any candidate with the endorsement of say, 5 members. The general electorate will vote on all candidates thus nominated on a one-person-one-vote basis.
Democratic Party (Submission F46 in Appendix I to the Fourth Report of the Constitutional Development Task Force)	25.5.2004	The Nominating Committee should be formed by Members of the LegCo. A CE candidate may be nominated by 5 LegCo Members (each LegCo Member may nominate only one candidate). The members of the public will vote on all candidates thus nominated on a one-person-one-vote basis.
Hong Kong University Graduates Association Political Reform Concern Group (Submission G112 in Appendix I to the Fifth Report of the Constitutional Development Task Force)	9.2004	<ul style="list-style-type: none"> <li data-bbox="863 1350 1437 1608">• To transform the 800-member Election Committee into a 1200-member nominating committee. The method for electing members should be similar to that of the existing Election Committee. <li data-bbox="863 1659 1437 1986">• A CE candidate should be jointly nominated by not less than 150, but not more than 200 members of the Nominating Committee (with not less than 25 members from each sector). Each member may only nominate one candidate.

<u>Organisations/individuals making the submissions</u> (Submission No. ^{Note})	<u>Date of Submission</u>	<u>Summary of Views</u>
The Law Society of Hong Kong (Submission F262 in Appendix I to the Fourth Report of the Constitutional Development Task Force)	27.9.2004	<ul style="list-style-type: none"> • Election of the CE by universal suffrage will be held after nomination. As regards the election and vote counting methods, consideration should be given to requiring a candidate to secure more than half of the valid votes in order to be elected. <p>The nominating committee can take the form of either a separate Committee, or transformed from the Election Committee or the LegCo.</p>
Hon Mrs Rita FAN (Submission F257 in Appendix I to the Fourth Report of the Constitutional Development Task Force)	27.9.2004	<ul style="list-style-type: none"> • CE candidates could be elected by universal suffrage upon nomination by a nominating committee. • The Nominating Committee should comprise 1 600 members from different sectors (same as those of the Election Committee) who are returned by election. Formal candidacy for the CE requires nomination by not less than 400 Committee members.
Hon Albert CHAN (Submission F468 in Appendix I to the Fourth Report of the Constitutional Development Task Force)	15.10.2004	<ul style="list-style-type: none"> • A CE candidate may qualify for formal candidacy if he is able to secure nominations by not less than 5 000 registered voters, and the support of not less than 5% of the Election Committee.

<u>Organisations/individuals making the submissions</u> (Submission No. ^{Note})	<u>Date of Submission</u>	<u>Summary of Views</u>
<p>Joint Committee for the Promotion of the Basic Law of Hong Kong</p> <p>(Submission 57 in the addendum to Appendix I to the Fourth Report of the Constitutional Development Task Force)</p>	21.10.2004	<ul style="list-style-type: none"> • After nomination, candidates will be elected by all electors in Hong Kong by universal suffrage. The candidate receiving the highest number of votes will become the CE. The Election Committee should validate the election result procedurally, and the candidate elected will become the CE upon validation. • To turn the Election Committee into the Nominating Committee. The method for electing members of the Nominating Committee should be the same as that for electing members of the Election Committee. The number of members should be increased to 1600. In each sector, there should be 25 members returned by universal suffrage through geographical constituencies. • Each member of the Nominating Committee may nominate only one candidate, and each candidate must be nominated by 200 members. • If only one candidate is selected by the Nominating Committee, that candidate will be elected <i>ipso facto</i>. If more than one candidate are selected by the Nominating Committee, election by universal suffrage shall be held.

Note: Please refer to “The First to Fifth Reports of the Constitutional Development Task Force” on the Constitutional Affairs Bureau webpage for the original text of the submissions.
(www.cab.gov.hk/cd/eng/past/index.htm).

Annex II

Public views on possible models for selecting the Chief Executive by universal suffrage

Written submissions received by the Legislative Council

<u>Organisations/individuals making the submissions</u> (Submission No. ^{Note})	<u>Date of Submission</u>	<u>Summary of Views</u>
Hong Kong Bar Association (Submission No. 03 in Appendix I to LC Paper No. CB(2)2386/05- 06(01))	3.3.2000	All members of the Election Committee shall be returned by direct or indirect election; at least half of the members of the Election Committee be returned by geographical constituency election by universal suffrage.
Hong Kong University Graduates Association Political Reform Concern Group (Submission No. 04 in Appendix I to LC Paper No. CB(2)2386/05- 06(01))	9.2004	<ul style="list-style-type: none">• To transform the 800-member Election Committee into a 1200-member nominating committee. The method for electing members should be similar to that of the existing Election Committee.• A CE candidate should be jointly nominated by not less than 150, but not more than 200 members of the Nominating Committee (with not less than 25 members from each sector). Each member may only nominate one candidate.• Election of the CE by universal suffrage will be held after nomination. As regards the election and vote counting methods, consideration should be given to requiring a candidate to secure more than half of the valid votes in order to be elected.

<u>Organisations/individuals making the submissions</u> (Submission No. ^{Note})	<u>Date of Submission</u>	<u>Summary of Views</u>
Civic Exchange (Submission No. 01 in Appendix I to LC Paper No. CB(2)2386/05-06(01))	15.2.2005	<ul style="list-style-type: none"> • The Election Committee to be composed of not less than 5 000 members and be changed into a nominating committee. • As regards the composition of the nominating committee, apart from the ex-officio members (such as the Legislative Council Members, 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), the other members may be selected at random based on each of the District Council constituency. • A candidate needs to secure nominations from not less than 250 members of the nominating committee and 2 500 registered voters in order to be qualified to stand at election.
Association for the Advancement of Feminism (Submission No. 14 in Appendix I to LC Paper No. CB(2)2386/05-06(01))	9.11.2005	The Chief Executive should be elected by direct election on a “one-person-one-vote” basis. No need to establish any form of election committee.

<u>Organisations/individuals making the submissions</u> (Submission No. ^{Note})	<u>Date of Submission</u>	<u>Summary of Views</u>
Hon. LEUNG Kwok-hung (Submission No. 13 in Appendix I to LC Paper No. CB(2)2386/05-06(01))	16.1.2006	It is inappropriate to retain the nominating committee for the selection of the CE. A candidate can only be nominated when he has secured support from a specified percentage of registered voters. The nomination and election proceedings should adhere to the principle of “one-person-one-vote”.
Democratic Party (Submission No. 02 in Appendix I to LC Paper No. CB(2)2386/05-06(01))	4.2006	The nominating committee to be formed by the Members of the LegCo. The CE should then be elected by members of the public on a “one-person-one-vote” basis and appointed by the CPG. A CE candidate is to be nominated by five LegCo Members. Each Member may nominate only one candidate.

Note: Please refer to the Legislative Council webpage for the original text of the submissions (LC Paper No. CB(2)2386/05-06(01)).
(www.legco.gov.hk/yr05-06/english/panels/ca/papers/ca0619cb2-2386-1e.pdf)

Annex III

Views on possible models for selecting the CE by universal suffrage

Written Submissions Received by the Committee on Governance and Political Development of the Commission on Strategic Development

<u>Members Submitting Views</u>	<u>Date of Submission</u>	<u>Summary of Views</u> ^{Note}
Hon. LEE Cheuk-yan	9.1.2006	<ul style="list-style-type: none">• The composition of the nominating committee must realize the principle of universal and equal rights for all citizens to nominate and be nominated. The current composition of the Election Committee stipulated in Annex I to the Basic Law is obviously not in line with the principle of equal and universal rights. It will not be consistent with the provisions of “democratic procedures” and “ultimate aim of universal suffrage” stipulated in Article 45 if such a composition is taken as a blueprint for forming the nominating committee.• Regarding the voting method for selecting the CE by universal suffrage, it is necessary to consider whether to adopt a “simple majority” voting method or a “two-round polling system” (i.e. if no candidate obtains more than half of the valid votes cast in the first round of polling, a second round will be held for voters to select the CE between the two candidates obtaining the most votes in the first round).

<u>Members Submitting Views</u>	<u>Date of Submission</u>	<u>Summary of Views</u> ^{Note}
Mr. CHAN Chung-bun, Bunny	20.1.2006	To expand considerably the membership of the Election Committee (including all District Council members as originally proposed by the Government).
Hon. LEE Wing-tat	26.5.2006	<ul style="list-style-type: none"> • The nominating committee should be composed of the Members of LegCo, and the CE should be elected on a “one-person-one-vote” basis. • Suggesting that a CE candidate may be nominated by five LegCo Members. Each Member may nominate only one candidate. As such, the number of candidates will be capped at 12.

Note: Please refer to the Central Policy Unit webpage (“Committee on Governance and Political Development – Members’ views on strategic issues discussed outside committee meetings”) for the original text of the submissions.
 (www.cpu.gov.hk/english/csd_gc_submissions_meeting_items.htm)

Related views raised by Members at previous meetings have been recorded in the summary of views expressed at the meetings. Members are welcome to continue to express their views.