

**Commission on Strategic Development
Task Group on Constitutional Development**

Issues to be Discussed at Future Meetings

Purpose

This paper invites Members to note the issues to be discussed at future meetings of this Task Group.

Background

2. The Decision made by the Standing Committee of the National People's Congress ("NPCSC") on 29 December 2007 makes it clear that the Chief Executive ("CE") may be elected by universal suffrage in 2017, and that after the CE is elected by universal suffrage, all members of the Legislative Council ("LegCo") may also be elected by universal suffrage in 2020. In attaining universal suffrage, we should first deal with the issue of how the two electoral methods for 2012 should be amended. In this regard, the CE has appointed this Task Group to discuss specifically the two electoral methods for 2012 within the framework set out by NPCSC's Decision.

3. The Task Group will hold its first meeting on 28 February 2008, and will meet once every month thereafter. We hope that the Task Group will complete discussions around the middle of this year.

Issues to be Discussed at Future Meetings

4. At this meeting, the Task Group will discuss issues relating to the method for electing the CE in 2012, including different options for the size and composition of the Election Committee and the nominating arrangements (CSD/TGCD/2/2008).

5. Issues to be discussed at future meetings are as follows:

Meetings	Discussion topics	Issues to be discussed
March & April	Electoral method for forming LegCo in 2012	(i) Number of geographical constituency and functional constituency (FC) seats. (ii) Delineation and size of the electorate of FCs. (iii) Whether the provision that the proportion of members who have the right of abode in foreign countries does not exceed 20 percent of the total membership of LegCo should be maintained.
May	Workshop	To listen to the views of academics, think tanks, as well as different organizations and individuals on the two electoral methods for 2012.
June	Conclusion of discussions	

6. Members are invited to note the list of issues for discussion as set out in paragraph 5 above.

Constitutional and Mainland Affairs Bureau
February 2008

**Commission on Strategic Development
Task Group on Constitutional Development**

**Method for Electing the Chief Executive in 2012 -
Size and Composition of the Election Committee and
Nominating Arrangements**

Introduction

On 29 December 2007, the Standing Committee of the National People's Congress ("NPCSC") adopted 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 Decision"), which makes clear the timetable for attaining universal suffrage in Hong Kong. According to the Decision, the Chief Executive ("CE") may be elected by universal suffrage in 2017 and, after the CE has been elected by universal suffrage, all members of the Legislative Council ("LegCo") may be elected by universal suffrage in 2020.

2. At the same time, regarding the methods for electing the CE and for forming LegCo in 2012, the Decision provides that:

“ The election of the fourth CE of the Hong Kong Special Administrative Region ("HKSAR") in the year 2012 shall not be implemented by the method of universal suffrage. The election of the fifth term LegCo of the HKSAR 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 LegCo 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 CE of the HKSAR in the year 2012 and the specific method for forming the fifth term LegCo of the HKSAR 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 HKSAR of the People's Republic of China.”

3. In attaining universal suffrage, we should first deal with the issue of how the two electoral methods for 2012 should be amended within the framework set out by the Decision, so as to allow the electoral system to be further democratised. This will lay a solid foundation for attaining universal suffrage for the CE in 2017 and for the LegCo in 2020. We suggest members address in different stages as to how the electoral methods for electing the CE and for forming LegCo in 2012 should be amended.

4. Regarding the CE election in 2012, although the Decision 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. This will serve as a midway station en route to universal suffrage in 2017. Hence, in discussing how the concerned electoral method should be amended, while members should take the existing provisions of Annex I to the Basic Law as the basis¹, consideration can be given to making appropriate adjustments conforming to the principle of gradual and orderly progress to the size and composition of the Election Committee and the nominating arrangements in the light of the actual situation in Hong Kong. In this regard, on the basis that the Basic Law and the Decision must be complied with, we suggest members consider the following key issues:

- (a) size of the Election Committee;
- (b) how the seats should be allocated among different sectors;
- (c) composition of the subsectors, e.g. whether new subsectors should be established or whether individual subsectors should be split or merged;

¹ In accordance with 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. Regarding the nomination of candidates, candidates for the office of CE may be nominated jointly by not less than 100 members of the Election Committee. Each member may nominate only one candidate.

- (d) electorate base of the Election Committee; and
- (e) arrangements for nominating CE candidates.

5. To facilitate members' discussion, we have consolidated the views collected during the public consultation exercise conducted by the Constitutional Development Task Force ("the Task Force") on the method for electing the CE in 2007 and those collected during the public consultation on the Green Paper on Constitutional Development ("the Green Paper") regarding the election of the CE by universal suffrage, as well as those expressed at the discussion of the Committee on Governance and Political Development of the previous Commission on Strategic Development ("CSD"). On this basis, we have set out various options regarding the key issues mentioned in paragraph 4 above.

Current Composition of the Election Committee

6. 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.

7. The 800-member Election Committee is composed of 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

8. In accordance with the provisions of Annex I to the Basic Law, the delimitation of the various sectors of the Election Committee, the

organizations in each sector eligible to return Election Committee members and the number of such members returned by each of these organizations shall be prescribed by an electoral law enacted by the HKSAR in accordance with the principles of democracy and openness. Corporate bodies in various sectors shall, on their own, elect members to the Election Committee, in accordance with the number of seats allocated and the election method as prescribed by the electoral law.

9. The Chief Executive Election Ordinance (Cap. 569) stipulates, in accordance with the provisions of Annex I to the Basic Law, the detailed statutory requirements and procedures governing the election of the CE, including the composition of the Election Committee. The four sectors of the Election Committee are constituted by 38 subsectors (please refer to Annex I for details).

Size and Composition of the Election Committee in 2012

10. As mentioned in paragraph 2 above, appropriate amendments conforming to the principle of gradual and orderly progress and in compliance with the provisions of Article 45 and Annex I of the Basic Law should be made to the method for selecting the CE in 2012. Moreover, according to the Decision, in selecting the CE 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 Basic Law.

11. In discussing the size and composition of the Election Committee in 2012, we suggest that the following factors be taken into account:

- (i) whether the requirement of “broadly representative” as set out in Annex I to the Basic Law can be complied with; and
- (ii) how to enhance the representativeness and legitimacy of the Election Committee.

(a) Size of the Election Committee

12. At present, Annex I to the Basic Law prescribes that the Election Committee shall be composed of 800 members. During the public consultation on the method for electing the CE in 2007 conducted by the

Task Force, there were more views within the community that the number of members of the Election Committee should be increased.

13. As for the discussion of the previous term CSD and the results of the public consultation on the Green Paper, regarding the size of the nominating committee, there were more views supporting that the nominating committee should be composed of 800 or more than 800 members. Although a political party had once proposed forming the nominating committee by less than 800 members (by 60 LegCo members), the proposal did not receive much support within the community, and the political party which put forth the proposal now supports the formation of the nominating committee by 1200 members.

14. We suggest that members focus the discussion on the options of forming the Election Committee in 2012 by 800 or more than 800 members.

(i) Forming the Election Committee by 800 members

15. Among the proposals received previously on the method for electing the CE in 2007, there are views that the size of the Election Committee should remain at 800 members. The reasons include:

- (i) the existing Election Committee already has broad representation; and
- (ii) too large a membership will cause operational difficulties for the committee.

(ii) Forming the Election Committee by more than 800 members

16. Among the proposals received previously on the method for electing the CE in 2007, the major reasons for enlarging the size of the Election Committee include:

- (i) to enhance the representativeness and legitimacy of the Election Committee;
- (ii) to allow wider participation of the community, including representatives of different strata of society;

- (iii) to be consistent with the principle of gradual and orderly progress and balanced participation; and
- (iv) to serve as a transitional arrangement leading to universal suffrage.

17. Regarding the specific number of members, we have previously received diverse views:

- (i) among the proposals received previously on the method for electing the CE in 2007, there are more views suggesting that the number of members of the Election Committee should be increased to 1200 or 1600. The reasons are that an expanded Election Committee may allow greater participation by more people from different sectors of the community, thereby enhancing the representativeness of the Election Committee. This may also broaden the electorate base of the Election Committee. There are also views that this can realize the principle of gradual and orderly progress; and
- (ii) among the proposals received on the models for implementing universal suffrage for the CE, there are more views suggesting that the nominating committee should be formed by 1200 or 1600 members, so as to enhance its representativeness and legitimacy. There are also views suggesting that the size of the nominating committee should remain at 800 members, or should be expanded to 1000 or 1800 members, etc.

(b) How the seats should be allocated to different sectors

18. According to the NPCSC's Decision, in selecting the CE by the method of universal suffrage, the nominating committee may be formed with reference to the current provisions regarding the Election Committee in Annex I to the Basic Law. In the seminar held on 29 December last year, Mr Qiao Xiaoyang, Deputy Secretary-General of the NPCSC, explained that the NPCSC's Decision "has made it clear that the nominating committee may be formed with reference to the current Election Committee, that is the basic element of forming the Election Committee by the four sectors should be preserved".

19. As a matter of fact, in the previous public consultation

exercises on the method for electing the CE in 2007 and that for implementing universal suffrage for the CE, there are quite a number of views which suggest that the existing composition of four sectors should be maintained for the Election Committee and the nominating committee. The reasons include, amongst others, that this can ensure balanced participation and representation of the interests of different sectors of the community. Hence, we suggest that members discuss the composition of the Election Committee to be formed in 2012 on the basis that the four existing sectors would be maintained, but the allocation of seats among the sectors can be discussed.

20. On the allocation of seats among different sectors, the major options put forth by the relevant proposals received previously are as follows.

(i) Maintaining equal number of seats in the four sectors

21. Currently, each of the four sectors takes up 25% of the seats of the Election Committee, i.e. each sector comprises 200 members. If the size of the Election Committee is enlarged, one option is to increase the number of seats of the four sectors evenly, maintaining the arrangement that the four sectors take up an equal number of seats.

(ii) Adjusting the proportion of seats among the four sectors

22. Consideration can be given to adjusting the existing proportion that each sector takes up 25% of the seats. For example, among the proposals received previously on the method for electing the CE in 2007, there are views which suggest that it is not necessary to maintain the same proportion of seats among different sectors. Moreover, in the public consultation on the model for implementing universal suffrage for the CE, there are views suggesting that, if the size of the nominating committee is enlarged, the percentage of members of the First Sector (i.e. the industrial, commercial and financial sector) should be increased to 35%, so as to reflect the contribution made by the business sector to Hong Kong.

(iii) Increasing the number of seats allocated to District Council members

23. At present, District Council members take up 42 seats of the Election Committee. We have previously received proposals that

consideration can be given to increasing the number of seats allocated to District Council members (e.g. to include all elected District Council members or only elected District Council members in the Election Committee). The reason is that as District Council members have a public mandate, this can enhance public participation in the Election Committee.

(c) **Reorganising the subsectors**

24. Regarding the current composition of the Election Committee, we have previously received proposals that consideration should be given to increasing the number of subsectors, splitting or merging certain subsectors, so as to reflect the development of society. In discussing the relevant options, we suggest taking into account the following factors:

- (i) whether the option can tie in with the development of society and respond to public aspiration;
- (ii) whether the option is practicable and will not give rise to very serious dispute within the community; and
- (iii) the importance and representativeness of the concerned sectors in society.

Establishing new subsectors

25. We have previously received proposals that consideration should be given to establishing new subsectors, with the additional seats allocated to sectors which are currently not represented in the Election Committee. This is to enhance the representativeness of the Election Committee. We have received various proposals relating to establishment of new subsectors, with the following examples.

(i) **Women subsector**

There are views that women's participation in the current Election Committee is relatively low, and that women are underrepresented. Hence, there is a suggestion that a subsector for women should be established.

(ii) Youth subsector

There are views that youth are the future pillars of society and represent a substantial portion of the population. Youth groups have been promoting participation of young people in public affairs, so as to enable them to become mature and responsible citizens who will contribute to the community. Hence, there is a suggestion that a subsector for youth should be added to the Election Committee, so as to enhance the political awareness of young people.

(iii) Small and medium enterprises (SMEs) subsector

There are views that the SMEs account for over 98% of the total number of enterprises in Hong Kong, and employ a substantial portion of the labour force. SMEs have made positive contribution to the stability and development of the Hong Kong economy. Hence, there is a suggestion that a subsector representing the SMEs should be added to the Election Committee.

(iv) Auxiliary profession subsector

In the current Election Committee, the Second Sector comprises 10 professional subsectors². There are views that as some auxiliary professions and other occupations are not represented by any subsector of the Election Committee (e.g. clerks of works, architectural technologists, statisticians, etc), a subsector for auxiliary professions should be established.

Splitting the existing subsectors

26. We have previously received proposals that certain subsectors comprising different trades should be split. This can allow different trades to elect their own representatives to the Election Committee, so that certain trades will not fail to be represented in the Election Committee due to their relatively small number of electors. In this regard, consideration can be

² The 10 professional subsectors are: Accountancy, Architectural, Surveying and Planning, Chinese Medicine, Education, Engineering, Health Services, Higher Education, Information Technology, Legal, and Medical subsectors.

given to establishing new subsectors, or forming sub-subsectors under the existing subsectors³. Each sub-subsector will be allocated a specified number of designated seats from the subsector which it belongs to.

27. We have received various proposals on the splitting of subsectors, with the following examples.

(i) Medical subsector

The Medical subsector is constituted by registered doctors and registered dentists. Given doctors comprise a larger portion of the subsector electors, Election Committee members previously elected to represent the subsector are mainly doctors. Hence, there is a suggestion that dentists should be split from the current Medical subsector.

(ii) Health Services subsector

The Health Services subsector comprises mainly nurses and other health professionals. Given nurses comprise a larger portion of the subsector electors, Election Committee members previously elected to represent the subsector are mainly nurses. Hence, there is a suggestion that health professionals should be split from the existing Health Services subsector.

Merging the existing subsectors

28. We have previously received proposals suggesting that individual subsectors should be merged, for example, the possibility of merging the Industrial subsector with the Commerce subsector, the Finance subsector with the Financial Services subsector, the Real Estate and Construction subsector with the Architectural, Surveying and Planning subsector, etc.

(d) **Electorate Base of the Election Committee**

29. According to the figures of the 2007 final register of voters, there are 217,496 eligible voters of the Election Committee, including

³ Currently, the seats allocated to the Sports, performing arts, culture and publication subsector are divided equally among the four sub-subsectors constituting that subsector, namely sports, performing arts, culture and publication sub-subsectors.

15,572 bodies and 201,924 individuals (please refer to Annex II).

30. We have previously received proposals that the existing 800-member Election Committee is already broadly representative. However, there are also views that consideration should be given to expanding the electorate base, so as to enhance the representativeness of the Election Committee.

31. If members consider that the electorate base of the Election Committee should be expanded, members may discuss the following proposals that we have received previously.

(i) Adjusting the delineation of subsector electorate

32. We have previously received proposals suggesting that, to tie in with the development of various trades, consideration may be given to adjusting the delineation of the electorate of certain subsectors. For example, at present, the electors of the Chinese Medicine subsector are Chinese medicine practitioners of designated Chinese medical bodies. There is a suggestion that the delineation of the electorate should be amended to include all registered Chinese medicine practitioners registered under the Chinese Medicine Ordinance (Cap. 549).

33. Moreover, the eligibility of electors of some subsectors is defined by academic qualifications, experiences, etc. of the professionals of the relevant trades. There are views that the eligibility criteria of electors should be relaxed. For example, the Engineering subsector is composed of professional engineers registered under the Engineers Registration Ordinance (Cap. 409) and members of the Hong Kong Institution of Engineers entitled to vote at general meetings of the Institution. There is a suggestion that associate and junior members of the Hong Kong Institution of Engineers should also be included as part of the electorate base.

34. Also, there are views that emerging business should be included in the relevant subsectors; for example, there is a suggestion that estate management should be included among the constituents of the Real Estate and Construction subsector.

(ii) Replacing corporate votes with director's or individual's votes

35. We have previously received proposals suggesting that

corporate votes should be replaced with director's or individual's votes, so as to broaden the electorate base and enhance the democratic elements of the Election Committee. However, we have also received views objecting to the replacement of corporate votes with individual's votes for the reason that this will not be consistent with the original intent of establishing the relevant subsectors.

Existing requirements for nominating CE candidates

36. Annex I to the Basic Law provides that candidates for the office of CE may be nominated jointly by not fewer than 100 members of the Election Committee (i.e. one-eighth of total membership of the Election Committee). Each member may nominate only one candidate.

Nominating arrangements for the CE election in 2012

37. In the previous public consultation on the method for electing the CE in 2007, there are diverse views on whether the number of subscribers for nominating CE candidates should be adjusted, including:

- (i) the requirement of not less than 100 subscribers should be maintained. If the number of Election Committee members is increased, the threshold in proportional terms will in practice be lowered;
- (ii) the number of subscribers required should be maintained at the ratio of one-eighth of total membership. If the number of Election Committee members is increased, the number of subscribers should also be increased to ensure that candidates have sufficient support;
- (iii) the number of subscribers required should be reduced to allow more potential candidates to take part in the election; and
- (iv) the number of subscribers should be increased to enhance the representativeness of CE candidates.

38. We have previously received proposals suggesting that consideration should be given to setting an upper limit for the number of subscribers, so as to enable more potential candidates to take part in the election. However, there are views that such a limit should not be put in

place, so as not to affect the right of members of Election Committee to nominate candidates, and that it is not necessary to restrict the number of nominations that a candidate may obtain.

Conclusion

39. Regarding the size and composition of the Election Committee and the arrangements for nominating CE candidates in 2012, the HKSAR Government does not have any established position on the issues set out in paragraphs 10-38 above. We suggest that members focus the discussion on:

- (i) whether the size of the Election Committee should be maintained at 800 members or should be expanded to more than 800 members;
- (ii) how the seats should be allocated to different sectors, for example, whether the arrangement that the four sectors take up an equal number of seats should be maintained, whether the proportion of seats in the four sectors should be adjusted, or whether the number of seats allocated to District Council members should be increased;
- (iii) whether new subsectors should be established, and whether certain subsectors should be split or merged;
- (iv) whether (and if so, how) the electorate base should be adjusted; and
- (v) whether the number of subscribers for nominating CE candidates should be adjusted, and whether an upper limit should be set for the number of subscribers.

40. We welcome members' views on these issues.

Constitutional and Mainland Affairs Bureau
February 2008

Composition of the Election Committee

First Sector (Industrial, commercial and financial sectors)

	<u>Subsector</u>	<u>Number of members</u>
1.	Catering	11
2.	Commercial (First)	12
3.	Commercial (Second)	12
4.	Employers' Federation of Hong Kong	11
5.	Finance	12
6.	Financial services	12
7.	Hong Kong Chinese Enterprises Association	11
8.	Hotel	11
9.	Import and export	12
10.	Industrial (First)	12
11.	Industrial (Second)	12
12.	Insurance	12
13.	Real estate and construction	12
14.	Textiles and garment	12
15.	Tourism	12
16.	Transport	12
17.	Wholesale and retail	12

Second Sector (The professions)

	<u>Subsector</u>	<u>Number of members</u>
18.	Accountancy	20
19.	Architectural, surveying and planning	20
20.	Chinese medicine	20
21.	Education	20
22.	Engineering	20
23.	Health services	20
24.	Higher education	20
25.	Information technology	20
26.	Legal	20
27.	Medical	20

Third Sector (Labour, social services, religious and other sectors)

	<u>Subsector</u>	<u>Number of members</u>
28.	Agriculture and fisheries	40
29.	Labour	40
30.	Religious*	40
31.	Social welfare	40
32.	Sports, performing arts, culture and publication	40

Fourth Sector (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)

	<u>Subsector</u>	<u>Number of members</u>
33.	National People’s Congress	36
34.	Legislative Council	60
35.	Chinese People’s Political Consultative Conference	41
36.	Heung Yee Kuk	21
37.	Hong Kong and Kowloon District Councils	21
38.	New Territories District Councils	21

* The number of members to be nominated by each of the six designated bodies of the religious subsector are as follows:

	<u>Number of members</u>
Catholic Diocese of Hong Kong	7
Chinese Muslim Cultural and Fraternal Association	6
Hong Kong Christian Council	7
The Hong Kong Taoist Association	6
The Confucian Academy	7
The Hong Kong Buddhist Association	7

**The Voters for Election Committee Subsectors
(Number of 2007 Final Register of Voters)**

Name of Subsectors		Number of Registered Voters		
		Bodies	Individual	Total
First Sector				
1	Catering	474	7,530	8,004
2	Commercial (First)	1,008		1,008
3	Commercial (Second)	723	994	1,717
4	Employers' Federation of Hong Kong	112		112
5	Finance	131		131
6	Financial Services	569		569
7	Hong Kong Chinese Enterprises Association	309	8	317
8	Hotel	95		95
9	Import and Export	778	585	1,363
10	Industrial (First)	751	0	751
11	Industrial (Second)	522		522
12	Insurance	138		138
13	Real Estate and Construction	431	304	735
14	Textiles and Garment	3,721	88	3,809
15	Tourism	872		872
16	Transport	180		180
17	Wholesale and Retail	1,726	2,474	4,200
	Sub-total	12,540	11,983	24,523
Second Sector				
1	Accountancy		20,326	20,326
2	Architectural, Surveying and Planning		5,556	5,556

Name of Subsectors		Number of Registered Voters		
		Bodies	Individual	Total
3	Chinese Medicine		4,162	4,162
4	Education		77,851	77,851
5	Engineering		7,688	7,688
6	Health Services		35,369	35,369
7	Higher Education		6,735	6,735
8	Information Technology	260	4,709	4,969
9	Legal		5,480	5,480
10	Medical		9,952	9,952
	Sub-total	260	177,828	178,088
Third Sector				
1	Agriculture and Fisheries	160		160
2	Labour	556		556
3	Social Welfare	250	11,327	11,577
4	Sports, Performing Arts, Culture and Publication	1,806	79	1,885
	Sub-total	2,772	11,406	14,178
Fourth Sector				
1	Chinese People's Political Consultative Conference		120	120
2	Heung Yee Kuk		147	147
3	Hong Kong and Kowloon District Councils		216	216
4	New Territories District Councils		224	224
	Sub-total		707	707
	Total	15,572	201,924	217,496