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Legislative Council

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From : Senior Council Secretary (2) 3
To : Hon Members of Legislative Council

**Papers of the Task Group on Constitutional Development
of the Commission on Strategic Development**

I attach for Members' reference the following papers of the Task Group on Constitutional Development –

- Appendix I : Papers for the third meeting to be held on 25 April 2008
- Agenda
 - Further Discussion on the Method for Forming the Legislative Council in 2012
(*Paper No. CSD/TGCD/4/2008*)
- Appendix II : Summary of the views expressed at the second meeting held on 27 March 2008

(Ms Amy YU)
Senior Council Secretary (2) 3

**Third Meeting of
the Task Group on Constitutional Development
of the Commission on Strategic Development
to be held on 25 April 2008 at 3 p.m.
in the Conference Hall, 1/F, New Annex,
Central Government Offices**

Agenda

- I. Matters arising from the last meeting
- II. Further Discussion on the Method for Forming the Legislative Council in 2012 (Paper No: CSD/TGCD/4/2008)
- III. Any other business

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

**Further Discussion on
the Method for Forming the Legislative Council in 2012**

Introduction

At the last meeting, members held preliminary discussion on the method for forming the Legislative Council (“LegCo”) in 2012 . This paper summarizes members’ views to facilitate further discussion in a focused manner.

2. At the last meeting, members focused discussion on the following key issues:

- (a) the number of seats in LegCo;
- (b) the delineation of the electorate of functional constituencies (“FCs”); and
- (c) whether the arrangement that 20 percent of LegCo seats may be returned by individuals who are not of Chinese nationality or who have the right of abode in foreign countries should be adjusted.

3. In the paper “Method for Forming the Legislative Council in 2012” (CSD/TGCD/3/2008), we suggested that members should take into account the following factors in discussing the method for forming LegCo in 2012:

- (i) the provisions of the Decision of the Standing Committee of the National People’s Congress (“NPCSC”) (i.e. the half-and-half ratio between members returned by FCs and members returned by geographical constituencies (“GCs”) through direct elections shall remain unchanged) must be

complied with; and

- (ii) how to further democratize the electoral method in accordance with the principle of gradual and orderly progress.

4. At the last meeting, some members suggested that, apart from the above factors, members should also take into account that the options of the electoral method for 2012 should be conducive to attaining universal suffrage, and should not limit the room for discussion and constrain further development in future.

Summary of Views expressed during discussion at the Last Meeting

(a) Number of Seats in LegCo

5. At the last meeting, more members were of the view that consideration could be given to increasing the number of LegCo seats in 2012. The main reasons included:

- (i) meeting the operational requirements of LegCo, and improving the quality and efficiency of its service;
- (ii) the population-to-seat ratio of Hong Kong is relatively higher than those of overseas legislatures; and
- (iii) enabling more people to participate in politics, so as to nurture more political talent.

6. As regards the specific number of seats, more members suggested increasing the number to 70 or 80.

(b) The Delineation of the Electorate of FCs

7. If the number of LegCo seats was to be increased to 70 or 80, in accordance with NPCSC's Decision, the number of seats returned by GCs through direct elections and FCs should each be increased by 5 or 10.

8. At the last meeting, members focused discussion on how to broaden the electorate base of FCs. In this regard, the key considerations suggested by members included:

- (i) the representativeness and legitimacy of LegCo could be enhanced;
- (ii) the principle of “balanced participation” could be complied with;
- (iii) controversy within the community could be minimized.

9. If the number of FC seats was to be increased, members had put forth the following main proposals, as regards how the additional FC seats should be dealt with and how the electorate base of FCs could be broadened:

- (i) establishing new FCs;
- (ii) increasing the existing number of FC seats allocated to District Councils;
- (iii) replacing corporate votes with director’s or individual’s votes; and
- (iv) splitting or merging certain existing FCs.

(i) Establishing New FCs

10. Some members considered that if the number of FC seats was to be increased, new FCs should be established, rather than increase the number of FC seats allocated to District Councils. The major reasons included:

- (i) the nature of District Councils was different from that of other FCs as the latter were defined by the nature of occupation and sector. Increasing the number of seats allocated to the District Councils would not be entirely consistent with the principle of “balanced participation”;

- (ii) providing more opportunities for different sectors to participate in the work of LegCo at this stage could help their representatives get prepared for participating in universal suffrage in future;
- (iii) if the number of FC seats allocated to the District Councils was to be increased, the electorate base of these FC seats would duplicate with that of the new seats returned by GCs through direct elections, because the nature of District Council election was similar to that of GC, but not FC, election; and
- (iv) it might minimize controversy within the community if the newly established FC seats were to be allocated to different sectors.

11. Members had put forth different specific proposals on the establishment of new FCs, including:

- (i) Home-makers;
- (ii) Women;
- (iii) Youth;
- (iv) Retirees;
- (v) Grassroot and social groups;
- (vi) Small and medium enterprises;
- (vii) Creative industries;
- (viii) Chinese medicine practitioners and Chinese medicine industry; and
- (ix) Chinese enterprises.

(ii) Increasing the Existing Number of FC seats allocated to District Councils

12. However, some members suggested that if the number of FC seats was to be increased, the number of FC seats allocated to District Councils should be increased. The major reasons included:

- (i) given the wider electorate base of District Council members, this could enhance the democratic elements and representativeness of FCs;
- (ii) District Council members performed an important social function. Increasing the number of LegCo seats for District Council members would help nurture political talents among them;
- (iii) the proposal put forth by the Government in 2005 to allow all new FC seats to be returned through elections by District Council members from among themselves was supported by 60% of the public. Also, the HKSAR Government considered that the proposal was consistent with the principle of gradual and orderly progress, as prescribed under the Basic Law.

(iii) Replacing Corporate Votes with Director's / Association's / Individual's Votes

13. Some members suggested that consideration should be given to replacing corporate votes with director's / association's votes, so as to broaden the electorate base of FCs. However, some members suggested that the need for such arrangement for different sectors should be considered by taking into account the circumstances of individual sectors.

14. However, a member considered that replacing corporate votes with director's votes would not serve a useful purpose, as directors were appointed by the companies. A member suggested that corporate votes be replaced by individual's votes.

15. Some members considered that it would not be necessary to change the electorate base of the existing FCs, if the number of LegCo seats was to be increased. However, there were views that consideration should be given to expanding the electorate base of the FCs, rather than increasing the number of seats because the former would involve fewer changes and would unlikely attract objection among the community, and would, thus, minimize controversy.

(iv) Splitting or merging the Existing Sectors

16. A member suggested that consideration could be given to splitting some existing FCs, e.g. the Sports, Performing Arts, Culture and Publication FC.

17. However, some members considered that splitting or merging the existing sectors would be relatively more complicated and that there would not be sufficient time for the community to discuss the issue.

(c) **Whether the arrangement that 20 percent of LegCo seats may be returned by individuals who are not of Chinese nationality or who have the right of abode in foreign countries should be adjusted**

18. Members held diverse views on whether the arrangement that 20 percent of LegCo seats might be returned by individuals who were not of Chinese nationality or who had the right of abode in foreign countries should be adjusted. Some members considered that the current arrangement should be maintained. The reasons included:

- (i) this could maintain the image of Hong Kong as an international city;
- (ii) the wave of emigration had already passed and in practice, there were only very few LegCo members who were not of Chinese nationality or who had the right of abode in foreign countries; and
- (iii) this was a special arrangement under “One Country, Two Systems” to allow LegCo to attract different talents.

19. However, there were also members who considered that the concerned percentage should be gradually reduced or the arrangement should be abolished. The reasons included:

- (i) this was only a transitional arrangement. The relevant percentage should be reduced in phases and the arrangement should be abolished in the long run (particularly when universal suffrage had been implemented); and
- (ii) such an arrangement was not common among overseas legislatures.

Conclusion

20. Any option of the electoral method for forming LegCo in 2012 should be formulated in accordance with NPCSC's Decision of 29 December 2007. Provided that the proposal could enhance the representativeness of LegCo and public participation, it would be able to pave way for attaining universal suffrage. We suggest that members should continue to discuss the relevant issues and, on the basis of the discussion at the last meeting, focus discussion on the following issues:

- (a) if the number of LegCo seats is to be increased, whether it should be increased to 70 or 80;
- (b) if the number of FC seats is to be increased, how should the additional FC seats be dealt with, and whether the electorate base of FCs should be broadened; and
- (c) whether (and how) the arrangement that 20 percent of LegCo seats may be returned by individuals who are not of Chinese nationality or who have the right of abode in foreign countries should be adjusted.

21. We would welcome members' views on these issues.

Constitutional and Mainland Affairs Bureau
April 2008

**Summary of views expressed at
the Second Meeting
of the Task Group on Constitutional Development
of the Commission on Strategic Development
held on 27 March 2008**

(Translation)

The Convenor welcomed Members to the second meeting of the Task Group on Constitutional Development (Task Group) of the Commission on Strategic Development (CSD).

Matters Arising

2. The Convenor told the meeting that the CSD Secretariat had forwarded to Members a summary of views expressed at the first meeting. It had also submitted the discussion paper of this meeting to the Legislative Council (LegCo) Secretariat. The Secretary for Constitutional and Mainland Affairs (SCMA) attended the meeting of the LegCo Panel on Constitutional Affairs on 17 March to listen to the views of LegCo members on the method for electing the Chief Executive (CE) in 2012. In future, apart from promoting discussions on the two electoral methods for 2012 through the Task Group, the HKSAR Government would continue to hear from the LegCo in order to gauge a wide range of views.

**Method for Forming the Legislative Council in 2012
(Paper Ref: CSD/TGCD/3/2008)**

General Views

3. Some members considered that before proceeding to discuss the method for forming the LegCo in 2012, the model and roadmap for implementing universal suffrage for forming the LegCo in 2020, especially on how to deal with the functional constituencies (FCs), should be discussed first. A Member raised that if the FCs were to be abolished upon universal suffrage, the existing arrangements for returning FC seats should be changed for the LegCo election in 2012, or alternatively, all the newly created FC seats should be allocated to District Council (DC) members. However, if the FCs were to be retained when universal suffrage was attained, the additional FC seats should then be distributed

among different sectors, and ways to enhance the democratic elements in the FCs should be explored.

4. However, some Members disagreed with the approach of discussing the models for implementing universal suffrage before considering the electoral methods for 2012 as the community has yet to reach a consensus on the models for implementing universal suffrage. Discussion now should thus be focused on the electoral methods for 2012 in order to achieve progress, after which there would be room for discussing the issue of universal suffrage. There were views that the electoral methods for 2012 should not limit the room for discussing the models for implementing universal suffrage in future.

5. A Member took the view that the FCs should be abolished when implementing universal suffrage for the LegCo. However, another Member opined that further discussion could be conducted on whether retaining the FC seats would necessarily violate the principle of universal suffrage.

6. A Member suggested that the “one-person-two-votes” system should be considered when universal suffrage was implemented for the LegCo, whereby half of the seats would be returned by geographical constituencies (GCs) through direct elections, and the other half by a list proportional representation system where the whole of Hong Kong would form a single constituency. The system would serve to attract elites from all sectors of the community to enter the political circle and strengthen the role of political parties.

7. A Member supported adopting the model of “one-person-two-votes” when implementing universal suffrage. As an example, the Member suggested broadening the electorate base of the FCs so that voters across the territory could vote in the GCs through direct elections as well as in the FCs to which they belonged. Another Member suggested that consideration might be given to forming an electoral college in each of the FCs for returning the seats. However, a Member opined that the “one-person-two-votes” proposal could only give the voters equal voting rights but not equal right to nominate candidates.

8. Furthermore, a Member suggested that the appointed DC seats should be abolished gradually in three phases with a view to abolishing the appointed DC seats when universal suffrage is implemented.

Number of seats in LegCo

9. More Members were inclined towards increasing the number of LegCo seats. There was a view that the number should be increased to 70 or 80, which meant the number of seats returned by GCs and FCs would each be increased by 5 or 10.

10. Members supporting an increase in the number of seats were of the view that it would help cope with the heavy workload of the LegCo and meet its operational requirements. Furthermore, increasing the number of seats would allow more people with different backgrounds, experiences and views to participate in politics, which was conducive to the nurturing of political talents. A Member also raised that this proposal would enhance the LegCo function of reflecting a full spectrum of public opinions. A Member pointed out that since the population-to-seat ratio of Hong Kong was higher than that of other places, there was room for increasing the number of seats.

Expanding the Electorate Base of FCs

11. Members understood that the NPCSC's Decision provided that in the 2012 LegCo election, the half-and-half ratio between members returned by FCs and members returned by GCs through direct elections shall remain unchanged.

12. As to how the electorate base of FCs should be expanded, Members were of the view that the arrangements must comply with the principle of "balanced participation", with the representativeness and legitimacy of the LegCo enhanced and controversies within the community minimised.

13. A Member opined that compared with increasing the number of FC seats, expanding the electorate base of FCs in 2012 would involve fewer changes. This method, to which the community at large should have no objection, was more practicable.

14. A Member held that the existing electorate base of FCs needed not be changed if the number of LegCo seats was to be increased, but another Member considered that the electorate base should be expanded rather than increasing the number of seats.

Establishing New FCs

15. A Member opined that if the number of seats returned by FCs was to be increased, new FCs should be established. This could meet the interests of different sectors of society and facilitate gradual development of a system of democratic participation that would suit the actual situation in Hong Kong. Besides, a Member reckoned that there might be fewer controversies within the community if the newly created FC seats were distributed among more sectors. Another Member pointed out that providing different sectors with more opportunities to participate in the work of the LegCo at the present stage would be conducive to getting the representatives of the sectors prepared for participation in universal suffrage in future.

16. With respect to the new sectors to be established, specific proposals put forward by Members included:

- grass-root and social groups;
- women;
- youth;
- small and medium enterprises;
- creative industries;
- Chinese medicine;
- home-makers;
- retirees; and
- Chinese enterprises.

Number of FC seats allocated to DCs

17. A Member suggested that if the number of FC seats was to be increased, the number of FC seats allocated to DCs should be increased as this would be less controversial than establishing new FCs. Another Member remarked that this could enhance the LegCo's democratic elements as most DC members were returned by GCs through direct elections and had a broader electorate base. A Member opined that DC members had their social functions and increasing the number of their seats in LegCo would help develop political talents among them. In addition, a Member pointed out that the proposal put forth by the Government in 2005 to return all the newly added FC seats through elections by DC members from among themselves received 60% public support at the time and that the proposal was considered by the HKSAR Government to be conforming

to the principle of gradual and orderly progress as stipulated in the Basic Law.

18. However, there were objections to the proposal on the ground that the DCs did not represent any FCs or serve any specific functional sectors or industries. Moreover, a member considered that the electorate base of DCs would overlap with that of the LegCo seats returned by GCs through direct elections, and that aspirations at district level on people's livelihood could already be reflected by those LegCo members who were returned by GCs through direct elections. There was also the view that since high calibre DC members could stand for direct elections in the GCs of the LegCo, there was no need to allocate additional FC seats to the DCs.

19. A Member suggested that the seats of the DC FC could be returned by an electoral college formed by DC members, but the candidates needed not be DC members. This was a kind of indirect election which was feasible in theory.

Replacing Corporate Votes with Director's or Individual's Votes

20. A Member opined that on the basis that LegCo elections should be carried out in accordance with the principles of gradual and orderly progress, fairness and balanced participation, consideration could be given to broadening the scope of corporate votes to include affiliated associations and directors of companies, so as to enhance the democratic elements of the FC elections. However, a Member pointed out that as directors were appointed by companies, it would not make much difference to replace corporate votes with director's votes. A Member agreed to the proposal of replacing corporate votes with individual's votes.

21. Besides, a member remarked that the proposal of replacing corporate votes with director's or individual's votes should be considered in the light of the respective characteristics and needs of individual sectors.

Splitting/Merging existing FCs

22. A Member reckoned that the existing delimitation of FCs should be reviewed to determine whether any sector needed to be reorganised or added.

23. A Member was of the view that the splitting of existing FCs (such as the Sports, performing arts, culture and publication FC) could be considered. However, another Member was of the view that the splitting or merging of FCs was relatively complicated and there would not be sufficient time for thorough discussions within the community.

Arrangement that LegCo seats may be taken up by individuals who are not of Chinese nationality or who have the right of abode in foreign countries

24. Regarding the arrangement that 20% of LegCo seats may be taken up by individuals who are not of Chinese nationality or who have the right of abode in foreign countries, some Members opined that it was only a transitional arrangement for the initial stage of Hong Kong's reunification with the motherland, and that the proportion of such seats should be reduced by phases, with the arrangement eventually abolished upon the implementation of universal suffrage. Besides, a Member pointed out that similar arrangements were rarely found in other legislatures.

25. However, there were also views that the arrangement should be maintained as it was a special arrangement under "One Country, Two Systems" to allow LegCo to attract different talents and reflect Hong Kong's inclusive and pluralistic culture. A Member remarked that the wave of emigration had already passed and in practice, there were only very few LegCo members who were not of Chinese nationality or who had the right of abode in foreign countries. Quite a number of Members considered that it should be left up to the public to decide whether to vote for those who are not of a Chinese nationality or who have the right of abode in foreign countries.

Conclusion

26. The Convenor concluded that at this meeting, more Members were inclined to support increasing the number of LegCo seats and there had also been preliminary discussions on how to deal with the electorate base of FCs. Although some Members requested to first work out the model for forming the LegCo in 2020 by universal suffrage, it would be difficult to reach a consensus on this issue within a short period of time. As such, current discussions should focus on the 2012 electoral arrangements to narrow the differences.

27. The Convenor indicated that the next meeting would continue to focus on the method for forming the LegCo in 2012. Additional comments from Members pertaining to this discussion session could be submitted in written form, which would then be circulated by the Secretariat to all Members of the Task Group.

28. An attendance list is attached at Annex.

**Secretariat to the Commission on Strategic Development
April 2008**

策略發展委員會
政制發展專題小組
第二次會議
2008年3月27日

**Second Meeting of the
Task Group on Constitutional Development
of the Commission on Strategic Development
27 March 2008**

出席人士
Attendance List

召集人 :
Convenor :

Mr TANG Ying-yen, Henry, GBS, JP
Chief Secretary for Administration

政務司司長
唐英年先生, GBS, JP

官方委員 :
Official Members :

Mr LAM Sui-lung, Stephen, JP
Secretary for Constitutional and Mainland Affairs

政制及內地事務局局長
林瑞麟先生, JP

Prof LAU Siu-kai, JP
Head, Central Policy Unit

中央政策組首席顧問
劉兆佳教授, JP

列席人士 :
In Attendance :

Mr LAW Chi-kong, Joshua, JP
Permanent Secretary for Constitutional and
Mainland Affairs

政制及內地事務局
常任秘書長
羅智光先生, JP

Mr HO Kin-wah, Arthur, JP
Deputy Secretary for Constitutional & Mainland
Affairs (1)

政制及內地事務局
副秘書長(1)
何健華先生, JP

Mr FAN Wai-ming, Raymond
Secretary to the Commission on Strategic
Development (Designate)

策略發展委員會秘書(候任)
范偉明先生

Mr CHAN Wai-man, Darryl
Press Secretary to Chief Secretary for
Administration

政務司司長新聞秘書
陳維民先生

非官方委員 :
Non-official Members :

Sir AKERS-JONES, David, GBM, JP
Mr CHAN Chung-bun, Bunny, BBS, JP
Prof CHEN Hung-ye, Albert, JP
Mr CHEUNG Chi-kong
Mr CHOW Yung, Robert, BBS
The Hon EU Yuet-mee, Audrey, JP
Ms FANG Meng-sang, Christine, JP
Mr HOO, Alan, SBS, JP
Mrs IP LAU Suk-ye, Regina, GBS, JP
Ms KO Po-ling, MH, JP
Mr LAU Nai-keung
Dr LAW Chi-kwong, SBS, JP
The Hon LEE Cheuk-yan
Dr LI Ka-cheung, Eric, GBS, JP
Mr LIE-A-CHEONG Tai-chong, David, JP
Mr LO Wing-hung, BBS
The Hon SHEK Lai-him, Abraham, SBS, JP
Dr SHIH Tai-cho, Louis
Mr SHIH Wing-ching, JP
Miss TAM Wai-chu, Maria, GBS, JP
The Hon TSANG Yok-sing, Jasper, GBS, JP
Mr WONG Kwok-kin, BBS
Mr WOO Kwong-ching, Peter, GBS, JP
Mr WU Ting-yuk, Anthony, JP
Dr ZHOU Ba-jun

鍾逸傑爵士, GBM, JP
陳振彬先生, BBS, JP
陳弘毅教授, JP
張志剛先生
周融先生, BBS
余若薇議員, JP
方敏生女士, JP
胡漢清先生, SBS, JP
葉劉淑儀女士, GBS, JP
高寶齡女士, MH, JP
劉迺強先生
羅致光博士, SBS, JP
李卓人議員
李家祥博士, GBS, JP
李大壯先生, JP
盧永雄先生, BBS
石禮謙議員, SBS, JP
史泰祖醫生
施永青先生, JP
譚惠珠女士, GBS, JP
曾鈺成議員, GBS, JP
黃國健先生, BBS
吳光正先生, GBS, JP
胡定旭先生, JP
周八駿博士

秘書 :
Secretary :

Mr Raymond TAM

譚志源先生

因事未能出席
Apologies

The Hon LEE Wing-tat

Mr NIGHTINGALE, Anthony John Liddell, SBS, JP

Mr TAM Kwok-kiu, MH, JP

The Hon TIEN Pei-chun, James, GBS, JP

Dr YUNG Wing-ki, Samuel, MH, JP

李永達議員

黎定基先生, SBS, JP

譚國僑先生, MH, JP

田北俊議員, GBS, JP

容永祺博士, MH, JP