

立法會 *Legislative Council*

LC Paper No. CB(2)829/08-09(04)

Ref. : CB2/PL/CA

Panel on Constitutional Affairs Background brief for the meeting on 16 February 2009

Constitutional Development

Purpose

This paper summarizes the main discussions held by the Panel on Constitutional Affairs (the Panel) on the constitutional development of the Hong Kong Special Administrative Region (HKSAR) since the first Legislative Council (LegCo).

Background

Existing methods for selecting the Chief Executive and forming LegCo

2. At present, in accordance with the provisions of Annex I to the Basic Law, the Chief Executive (CE) is elected by a broadly representative Election Committee and appointed by the Central People's Government (CPG). The Election Committee is composed of 800 members from four sectors made up of 38 subsectors as set out in **Appendix I**.

3. Currently, there are 60 seats in LegCo, half of them returned by geographical constituencies (GCs) through direct elections, and the other half by functional constituencies (FCs). For direct elections in GCs, the 30 seats are returned from five GCs by adopting the list system operating under the largest remainder formula, which is a form of proportional representation voting system. For FC elections, 30 seats are returned from 28 FCs. Details of the 28 FCs are set out in **Appendix II**.

Methods for selecting CE and LegCo by universal suffrage

4. Under Article 45 of the Basic Law (BL 45), CE of HKSAR shall be selected by election or through consultations held locally and be appointed by CPG. The method for selecting CE shall be specified in the light of the actual situation in HKSAR and in accordance with the principle of gradual and orderly progress. The ultimate aim is the selection of CE by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures.

5. Under BL 68, LegCo shall be constituted by election. The method for forming LegCo shall be specified in the light of the actual situation in HKSAR and in accordance with the principle of gradual and orderly progress. The ultimate aim is the election of all LegCo Members by universal suffrage.

6. The specific methods for selecting CE and forming LegCo (the "two electoral methods") are specified in Annex I and Annex II to the Basic Law respectively. If there is a need to amend the method for selecting CE for the terms subsequent to the year 2007, such amendments must be made with the endorsement of a two-thirds majority of all LegCo Members and the consent of CE and be reported to the Standing Committee of the National People's Congress (NPCSC) for approval. Any amendments made to the method for forming LegCo after 2007 must be made with the endorsement of a two-thirds majority of all LegCo Members and the consent of CE and be reported to NPCSC for the record.

Report entitled "The development of the political system of the Hong Kong Special Administrative Region" published by the Panel

7. On 12 January 2000, LegCo passed a motion moved by Hon Emily LAU urging the Administration to conduct a public consultation as soon as possible on the relationship between the executive and the legislature, the ministerial system and the election of CE and LegCo by universal and equal suffrage. The Panel subsequently published a report entitled "The development of the political system of the Hong Kong Special Administrative Region" after having received views from the public and reviewed various aspects of the development of political system. The Panel recommended, among other things, that a review on the development of the HKSAR's political system should be undertaken by the Government which must devise a realistic timetable for the review. A motion calling upon the Government to consider the views expressed by Members on the report was passed at the Council meeting on 14 June 2000.

8. In his reply, the then Secretary for Constitutional Affairs explained that the Basic Law had set down a mechanism determining the direction and steps for the political development of HKSAR after 2007, and the future political system of HKSAR must develop on the incremental basis laid down therein. Following the LegCo Elections in September 2000, the Administration would give thoughts to a specific schedule on reviewing the political system and consider how best to make the whole community reach a consensus on the issue of political development.

Review on constitutional development after 2007

Establishment of the Constitutional Development Task Force

9. On 7 January 2004, CE announced in his Policy Address the establishment of the Constitutional Development Task Force (the Task Force) led by the Chief Secretary for Administration. Its tasks were to examine in depth the relevant

issues of principle and legislative process in the Basic Law relating to constitutional development, to consult the relevant departments of the Central Authorities, and to gather the views of the public on the relevant issues.

Task Force's First Report and NPCSC Interpretation on 6 April 2004

10. On 30 March 2004, the Task Force published the First Report on issues of legislative process in the Basic Law relating to constitutional development. On 6 April 2004, NPCSC adopted the "Interpretation of Article 7 of Annex I and Article III of Annex II to the Basic Law" (the Interpretation in **Appendix III**). Clause 3 of the Interpretation states that CE of HKSAR shall make a report to NPCSC as regards whether there is a need to amend the methods for selecting CE and for forming LegCo under Annex I and Annex II respectively and its procedures for voting on bills and motions, and NPCSC shall, in accordance with the provisions of BL 45 and BL 68, make a determination in the light of the actual situation in HKSAR and in accordance with the principle of gradual and orderly progress.

11. Some Panel members agreed with the Task Force that it was legal and constitutional for NPCSC to exercise its power under the Constitution and the Basic Law to give an interpretation on the relevant provisions of the Basic Law. Some other Panel members questioned the need and appropriateness for NPCSC to interpret the Basic Law since the community had broad consensus on the legislative issues. These members also did not agree with the stance of the Task Force that unless a political consensus had been reached by the three parties, i.e. a two-thirds majority of LegCo Members, CE and NPCSC on the amendments to the "electoral methods", the HKSAR Government would not initiate the legislative process. They pointed out that this was not a requirement stipulated in the Basic Law.

Second, Third and Fourth Reports of the Task Force and the NPCSC Decision on 26 April 2004

12. On 15 April 2004, the Task Force published its Second Report on the issues of principle in the Basic Law relating to constitutional development. The Task Force recommended that CE should, in accordance with the NPCSC Interpretation on 6 April 2004, submit a report to NPCSC, recommending that the two electoral methods for 2007 and 2008 be amended, and requesting NPCSC to make a determination to that effect in accordance with the relevant provisions and principles in the Basic Law. CE endorsed the recommendations of the Task Force and submitted a report to NPCSC on 15 April 2004.

13. NPCSC examined the report submitted by CE, and adopted the "Decision of NPCSC on issues relating to the methods for selecting CE of HKSAR in the year 2007 and for forming LegCo of HKSAR in the year 2008" on 26 April 2004 (the 2004 NPCSC Decision in **Appendix IV**). The Decision is summarized as follows -

- (a) the election of the third term CE in 2007 and the fourth LegCo in 2008 shall not be by means of universal suffrage;
- (b) the 50:50 ratio for Members returned by FCs and Members returned by GCs through direct elections shall remain unchanged for the fourth LegCo;
- (c) the procedures of voting on bills and motions in LegCo are to remain unchanged; and
- (d) subject to the above not being contravened, the two electoral methods may be amended appropriately, consistent with Articles 45 and 68 of the Basic Law, and provisions of Annex I and Annex II to the Basic Law.

14. Some Panel members supported the 2004 NPCSC Decision. They considered that the Decision set out the parameters for further discussions on options to amend the two electoral methods, and would allow the democratic system of Hong Kong to progress in a gradual and orderly manner. As the Decision only dealt with the two electoral methods in 2007 and 2008, these members also considered that a timetable should be set for the future development of Hong Kong's political structure.

15. Some other Panel members expressed grave disappointment at the 2004 NPCSC Decision ruling out universal suffrage in 2007 and 2008 before the Hong Kong community was consulted. These members were of the view that the Decision had completely ignored public aspirations for democracy. They considered that the Decision was a violation of the principles of "One Country, Two Systems" and "a high degree of autonomy", as well as the provisions in Annex I and Annex II to the Basic Law which set out the proper procedure for amending the "electoral methods". Some Panel members also pointed out that the Decision to maintain the 50:50 ratio between Members returned by GCs and FCs respectively in 2008 did not accord with the principle of "gradual and orderly progress" in achieving the ultimate goal of universal suffrage.

16. On 11 May 2004, the Task Force published its Third Report which set out a number of areas to be considered for amendment in respect of the two electoral methods for 2007 and 2008. The Fourth Report published on 15 December 2004 set out and summarized the views and proposals collected from the community on the two electoral methods.

Fifth Report of the Task Force

17. The Fifth Report of the Task Force published on 19 October 2005 set out a package of proposals for the methods of selecting CE in 2007 and for forming LegCo in 2008 (the 2005 proposed package). The 2005 proposed package were proposed to be effected by way of two motions to amend Annexes I and II of the

Basic Law. The main thrust of the 2005 proposed package was the enhanced level of participation of District Council (DC) members in the Election Committee and LegCo. The package proposed that half of the newly added members of the Election Committee and all the newly added LegCo seats would basically be directly or indirectly elected by over three million voters, for the purpose of enhancing the democratic representation in the two electoral methods.

18. On 21 October 2005, the House Committee formed a subcommittee to study the 2005 proposed package and related issues. The issue of DC appointed membership was a main concern raised by some members of the subcommittee. The Administration subsequently briefed the Panel on the following adjustments which would be made to the 2005 proposed package on the condition that the two motions would be endorsed by LegCo on 21 December 2005 -

- (a) the maximum number of appointed DC seats be reduced from the existing 102 to 68 when the new term of DC commenced in January 2008; and
- (b) the Government would decide before the end of 2011 whether the maximum number of appointed DC seats should be further reduced to zero in January 2012, or to 34 in January 2012 and then to zero in January 2016.

19. Some Panel members considered the proposed adjustments retrogressive and unacceptable. They requested the Administration to put forth a revised proposal to include the abolition of all appointed DC seats and a timetable for universal suffrage. Some Panel members, however, supported the proposal to abolish appointed DC seats by phases, with a view to facilitating LegCo to reach a consensus on the two motions. They pointed out that if Members did not seize the opportunity to support the 2005 proposed package, the people of Hong Kong would have to wait for another five years before constitutional development could take a further step.

20. The Administration considered that a timetable for universal suffrage was not and should not be a prerequisite for LegCo to endorse the 2005 proposed package. The two issues should be dealt with separately. According to the Administration, the 2005 proposed package contained the highest possible degree of democratic elements within the framework laid down by the Basic Law and the NPCSC Decision made in April 2004. The package had received support from 60% of the general public according to an opinion survey. Members' support for the package would bring Hong Kong nearer to the ultimate aim of universal suffrage and would be conducive to achieving a consensus on future constitutional reform. In the event that the package was not endorsed, and there was no consensus on making any amendments to the two electoral methods, the 2007 CE election and the 2008 LegCo election would be held on the basis of the existing arrangements, i.e. no progress would be made on constitutional development.

21. On 21 December 2005, the Administration presented to LegCo for endorsement two motions to, respectively, amend Annexes I and II of the Basic Law regarding the two electoral methods for 2007 and 2008. As the motions did not receive the two-thirds majority support of all the LegCo Members as stipulated in Annexes I and II of the Basic Law, the motions could not be processed further.

Implementing universal suffrage for the election of CE and LegCo

Role of the Commission on Strategic Development

22. Despite the two motions on the 2005 proposed package having been negated, some Panel members considered that the Administration should take forward constitutional development by providing a timetable for universal suffrage. In December 2005, the Administration tasked the Committee on Governance and Political Development under the Commission on Strategic Development (CSD) to study ways to implement universal suffrage in accordance with the provisions and principles of the Basic Law, with a view to concluding discussions by early 2007. The Panel had monitored the progress of the discussions of CSD. The Panel also received views and held discussions on implementation of universal suffrage for CE and LegCo.

23. Some Panel members expressed dissatisfaction that the Administration was sidelining the role of LegCo by entrusting CSD to study models for implementing universal suffrage. In their view, the composition of CSD was not representative as its members were appointed by CE, and the operation of CSD was also not transparent given that its discussions were held in closed sessions.

24. The Administration explained that members of CSD were drawn from a wide spectrum of the community including LegCo Members, individuals with or without political background, professionals, businessmen, prominent labour and media personalities. The work carried out by CSD sought to build up consensus through collecting a wide spectrum of views on how universal suffrage should be attained, narrowing the differences in opinion through discussions, and striving to reach consensus on the relevant issues. At the request of the House Committee, discussion papers prepared for the committees under CSD were provided to LegCo Members for reference.

Election by universal and equal suffrage

25. Some Panel members pointed out that over 60% of the public as indicated in an opinion poll was supportive of expeditious implementation of dual elections by universal suffrage. The Administration should take into account the views of the public in determining the timing for implementing universal suffrage. These members considered it important that the public should have the right to vote at the elections by "universal and equal suffrage", as stipulated in paragraph (b) of Article 25 of the International Covenant on Civil and Political Rights (ICCPR). Some other Panel members considered that favourable conditions should be created for

the implementation of the ultimate aim of universal suffrage in accordance with the principle of gradual and orderly progress as stipulated in the Basic Law.

26. The Administration explained that in the process of attaining the ultimate aim of universal suffrage, any amendments to the two electoral methods required the endorsement of a two-third majority of all Members. In practice, this meant that the endorsement and support of Members returned by both GCs and FCs would be required for any model for implementing universal suffrage for LegCo. As regards Article 25 of ICCPR, HKSAR had reserved the right not to apply paragraph (b) of the Article as far as the elections of CE and LegCo were concerned. In addition, "equal suffrage" did not require that every vote should have the same effect on the outcome of the election.

27. On the possible models for electing CE by universal suffrage, the Panel was informed that CSD members had agreed that after the nomination of candidates, CE should be elected by universal suffrage on the basis of "one-person-one-vote". CSD members had discussed three key issues relating to possible models for electing CE by universal suffrage, i.e. the composition and size of the nominating committee, the method of nomination and the method for selecting CE by universal suffrage following nomination.

28. On nomination requirements, some Panel members noted that CSD had discussed proposals such as whether candidates should be required to secure a certain number of nominations in each sector of the nominating committee to ensure that the candidates had a certain level of support from different sectors and strata, and the CE elected would be acceptable to both the Central Authorities and the people of Hong Kong. These members expressed grave concern that candidates were required to go through a preliminary selection process whereby members of the nominating committee could have a power of veto. They requested the Administration to ensure that the model for selecting CE by universal suffrage should comply with the democratic principles i.e. the nomination threshold should be set at a low level to enable more candidates to take part in the election, and the nominating committee should be broadly representative.

29. Some Panel members considered that the model for electing CE should comply with Article 45 of the Basic Law which clearly stipulated the establishment of a broadly representative nominating committee, although its composition was open for discussion.

30. On possible models for forming LegCo, some Panel members expressed strong objection to the proposal of implementing a bicameral legislature as the Basic Law Drafting Committee had vetoed the proposal and the Basic Law did not provide for a bicameral system. In their view, the bicameral system which sought to retain FCs was against the principle of equal and universal suffrage. The Panel noted that CSD members had subsequently decided to set aside for the time being any further discussions on a bicameral system as an option for implementing universal suffrage.

31. Some Panel members agreed with the view of some CSD members that consideration should be given to the direction of "resolving the simple issues before the difficult ones" in taking forward constitutional development. As there were still significant differences among different sectors of the community on models for forming LegCo by universal suffrage, particularly on how FCs should evolve, these members considered that universal suffrage for CE should be implemented first. However, these members had diverse views on whether universal suffrage for CE should be attained in 2012 or thereafter. Some other Panel members strongly objected to the proposal for universal suffrage for CE to precede that for LegCo, and considered that "dual universal suffrage" should be implemented in 2012.

32. On the universal suffrage model for the LegCo, some Panel members maintained the view that FCs should be abolished in entirety when universal suffrage was attained in 2012. Some Panel members, however, considered that if universal suffrage for CE could be implemented in 2012, FC seats could be abolished by three stages in 2016, 2020 and 2024 so as to comply with the principle of "gradual and orderly progress".

Green Paper on Constitutional Development

33. In July 2007, the Administration published the Green Paper on Constitutional Development (the Green Paper) which summarized the different views put forth by CSD and the community on the models, roadmap and timetable for implementing universal suffrage, and presented the relevant views in the form of options to facilitate public discussion.

34. Regarding the models for electing CE by universal suffrage, the Green Paper set out three key issues that had to be considered, namely composition and size of the nominating committee, method of nomination, and method for selecting CE by universal suffrage following nomination. The Green Paper provided three options each for the composition and size of the nominating committee, and the method of nomination. It also covered other related issues such as whether an upper limit should be set on the number of subscribers which a CE candidate could obtain, and whether a candidate should be required to obtain a certain number of nominations from each sector or from some specified sectors of the nominating committee.

35. Regarding the model for implementing universal suffrage for LegCo, the key issue was how the existing FCs should be dealt with. As there were divergent views on the issue, the Green Paper categorized the views received relating to the models for implementing universal suffrage for LegCo under three types of options, namely to replace FC seats with district-based seats returned through direct election, to retain FC seats by changing the electoral method, and to increase the number of seats representing DCs in LegCo, and all LegCo seats would then be returned either through direct or indirect elections.

36. Regarding the roadmap and timetable for implementing universal suffrage, the Green Paper provided three options each for the CE election and the LegCo

election. The Green Paper also covered the aspect of whether universal suffrage for CE should precede that for LegCo.

37. The Panel held a total of seven meetings to discuss the Green Paper and receive views from the public. Some Panel members stressed that equal suffrage included the right for all citizens to nominate and to vote for a candidate at an election. They queried whether the options presented in the Green Paper would be consistent with the definition of universal suffrage. While some Panel members expressed their strong wish for dual universal suffrage in 2012, some other members took the view that, in the process of attaining the ultimate aim of universal suffrage, Hong Kong should take account of the actual situation and progress in a gradual and orderly manner in accordance with the principle of "resolving the simple issues before the difficult ones". Given the complexity of the composition of LegCo, universal suffrage for LegCo should follow universal suffrage for CE to be implemented no later than 2017. The Panel also discussed how a package of mainstream proposals for universal suffrage would be put together after consultation and the procedures for amending the electoral methods.

38. According to the Administration, the options included in the Green Paper had to satisfy four criteria, i.e. they should be consistent with the Basic Law and should not require amendments to the main provisions of the articles of the Basic Law; they should attract majority support among the people of Hong Kong; they would stand a reasonable chance of securing two-thirds majority in LegCo; and they would stand a good chance of being considered seriously by the Central Government. In considering the options for implementing universal suffrage for electing CE and for forming LegCo, the relevant provisions and principles, including the principles of "universal" and "equal" suffrage must be adhered to. The Administration noted that the universal suffrage system commonly adopted was a one-person-one-vote system which could take the form of direct or indirect election. As regards amendments to the electoral methods, the Administration reiterated that the procedure for introducing any changes to the electoral methods in HKSAR must comply with the Basic Law and the timing for invoking the mechanism would depend on when a consensus on the various key issues relating to the implementation of universal suffrage could be reached in the community.

39. The consultation on the Green Paper ended on 10 October 2007. The Administration published the Report on Public Consultation on the Green Paper on Constitutional Development in December 2007 (the Green Paper Report), the conclusions and recommendations of which are summarized in **Appendix V**.

The NPCSC Decision on 29 December 2007

40. On 12 December 2007, CE submitted the "Report on the Public Consultation on Constitutional Development and on whether there is a need to amend 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 2012" (CE Report) to NPCSC together with the Green Paper Report.

41. Some Panel members expressed dissatisfaction and disappointment at the conclusion in the two Reports that "[i]mplementing universal suffrage for CE first in 2012 is the expectation of more than half of the public, as reflected in the opinion polls; this expectation should be taken seriously and given consideration. At the same time, implementing universal suffrage for CE first by no later than 2017 will stand a better chance of being accepted by the majority in our community". They considered that CE had failed to honour his electoral pledge that he would make the best endeavour to pursue universal suffrage during his term of office. They criticized that the two Reports had not put forth the models and roadmap for electing CE and forming LegCo by universal suffrage, nor put up a strong case for implementing dual universal suffrage in 2012 to reflect the aspirations of the public.

42. After considering the CE Report, NPCSC made a decision on 29 December 2007 on issues relating to the methods for selecting CE and for forming LegCo in the year 2012 and on issues relating to universal suffrage. The 2007 NPCSC Decision (**Appendix VI**) is summarized below -

- (a) universal suffrage for electing CE and for election of all the Members of LegCo by universal suffrage may respectively take place in 2017 and thereafter;
- (b) the election of the fourth term CE in 2012 and the fifth LegCo in 2012 shall not be by means of universal suffrage;
- (c) the 50:50 ratio for Members returned by FCs and Members returned by GCs through direct elections shall remain unchanged for the fifth LegCo;
- (d) the procedures of voting on bills and motions in LegCo shall remain unchanged; and
- (e) subject to the above not being contravened and consistent with BL 45 and BL 68, and the provisions of Annex I and Annex II to the Basic Law, the two electoral methods may be appropriately amended.

43. The Administration considered the 2007 NPCSC Decision, which provided a timetable for implementing universal suffrage, an important milestone for the constitutional development of Hong Kong. According to the Administration, the Decision had made it clear that CE may be elected by universal suffrage in 2017, and that after CE was elected by universal suffrage, all LegCo Members might also be elected by universal suffrage in 2020.

44. Some Panel members expressed dissatisfaction that NPCSC had again ruled out the implementation of dual universal suffrage in 2012. They pointed out that the universal suffrage timetable provided in paragraph 42(a) above was merely a

view and not a decision, as universal suffrage for CE and LegCo "may" take place in 2017 and thereafter. They expressed concern whether the implementation of universal suffrage for CE and LegCo in 2017 and 2020 respectively was a sham, and whether the "universal suffrage models" would comply with the principles of "universal" and "equal" suffrage in Article 25 of ICCPR.

45. The Administration explained that the universal suffrage timetable provided in paragraph 42(a) was part and parcel of the 2007 NPCSC Decision and was legally binding. The Administration made reference to paragraph 2.24 of the Green Paper, which had made clear that "... the concept of universal suffrage should include the principles of "universal" and "equal" suffrage. Universal suffrage system commonly adopted in overseas jurisdictions is a one-person-one-vote system which can take the form of direct or indirect election."

46. Some other Panel members held the view that the 2007 NPCSC Decision was appropriate to the actual situation in HKSAR and the timetable provided had addressed the aspirations of the public. They considered that a pragmatic and accommodating attitude should be adopted to work together towards securing a consensus for implementing universal suffrage based on the framework of the Decision. They cautioned that the ambition to achieve universal suffrage in one go might result in stalling the pace of constitutional development.

47. At its meeting on 21 January 2008, the Panel passed a motion, by a vote of 20 to seven, supporting the 2007 NPCSC Decision and calling for the joint efforts of all sectors of the community to reach a consensus on a more democratic electoral system in 2012, with a view to attaining universal suffrage for CE in 2017 and for LegCo in 2020.

Methods for electing CE and forming LegCo in 2012

48. CE had appointed the Task Group on Constitutional Development under CSD (the Task Group) to discuss specifically the two electoral methods for 2012 within the framework set out in the NPCSC Decision on 29 December 2007. The Panel was briefed on relevant deliberations of the Task Group on a number of occasions.

49. Some Panel members opined that the models for implementing universal suffrage should be discussed first and after consensus had been reached, discussions could then be held on the two electoral methods for 2012. The Administration explained that it was appropriate for the third term CE to deal with the two electoral methods for 2012, a midway station en route to universal suffrage for CE in 2017 and LegCo in 2020. CE elected in 2012 would work with the Fifth LegCo on the arrangement for implementing universal suffrage for the 2017 CE election; whereas CE elected by universal suffrage would work with the Sixth LegCo on the arrangement for implementing universal suffrage for the 2020 LegCo election.

50. Some Panel members found it difficult to accept the view that the retention of FC seats in some form in the model for forming LegCo by universal suffrage could be regarded as complying with the principles of "universal" and "equal" suffrage. They maintained that FC seats should be abolished and all LegCo seats should be returned by direct elections when universal suffrage was implemented. The Administration should provide a roadmap and the transitional arrangements for the ultimate implementation of dual universal suffrage. Some other Panel members considered that various sectors of the community had diverse views on the method for forming LegCo by universal suffrage and the abolition of FC seats altogether. The issue was a complicated one and would need to be further studied.

51. The Panel noted that the Task Group had discussed whether the number of LegCo seats should be increased to 70 or 80 in 2012. Some Panel members pointed out that in accordance with the 2007 NPCSC Decision, the ratio between Members returned by FCs and GCs should remain unchanged for 2012. An overall increase in the number of LegCo seats would inevitably lead to an increase in the number of FC seats, and would only pose further hurdles for consensus to be reached to abolish all FC seats. At the meeting on 19 May 2008, the Panel passed a motion, by a vote of 13 to six, urging CE to state clearly that all FC seats should be abolished in the model for forming LegCo by universal suffrage.

52. The Administration advised that the Task Group would conclude discussions around the middle of 2008. The Administration would consolidate options for amending the two electoral methods for 2012 in the fourth quarter of 2008 and conduct another round of public consultation as early as possible.

Work plan on constitutional development

53. At the Panel meeting on 21 January 2008, the Administration advised that it aimed to attain universal suffrage by three stages in the next 10 to 12 years -

- (a) Stage 1 from 2008 to 2012 - with the focus of discussion on how to amend the two electoral methods for 2012;
- (b) Stage 2 from 2012 to 2017 - with the focus of discussion on how to attain universal suffrage for CE in 2017 and how to further democratise the electoral method for LegCo in 2016; and
- (c) Stage 3 from 2017 to 2020 - with the focus of discussion on how to attain universal suffrage for LegCo.

The Administration advised that each stage of work was interrelated and the public was free to give views on models for universal suffrage at any of the stages. The aim of the HKSAR Government was to settle the two electoral methods for 2012 within the tenure of the current-term Government. This could lay a solid foundation for attaining universal suffrage for CE in 2017, and for LegCo in 2020.

Latest development

54. During the CE's Question and Answer Session on 15 January 2009, CE announced that the public consultation on the 2012 electoral arrangements would be deferred to the fourth quarter of 2009 so that the Government could focus on dealing with the economic and livelihood issues arising from the financial tsunami. Subsequently, Hon Albert HO has given notice to move a motion on "Procrastinating public consultation on constitutional development" at the Council meeting on 11 February 2009. At members' request at the meeting on 19 January 2009, the Administration undertook to brief the Panel on the public consultation and legislative timetable for the two electoral methods for 2012 at the next meeting scheduled for 16 February 2009.

Motion debates in Council

55. A list of other relevant motions moved for debate in Council is in **Appendix VII**.

Questions in Council

56. A list of the relevant questions raised in Council is in **Appendix VIII**.

Research reports

57. To facilitate members to consider the electoral methods for electing CE and forming the legislature, the Research and Library Services Division of the Secretariat has undertaken a number of researches relating to the systems of government and electoral systems in overseas countries. A list of the research reports is in **Appendix IX**.

Relevant papers

58. A list of the relevant papers available on the LegCo website is in **Appendix X**.

Appendix I

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 organisations, 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 |

Appendix II

Functional Constituencies of the Legislative Council

| | <u>Functional constituency</u> | <u>Number of members to be returned</u> |
|-----|---|---|
| 1. | Heung Yee Kuk | 1 |
| 2. | Agriculture & Fisheries | 1 |
| 3. | Insurance | 1 |
| 4. | Transport | 1 |
| 5. | Education | 1 |
| 6. | Legal | 1 |
| 7. | Accountancy | 1 |
| 8. | Medical | 1 |
| 9. | Health Services | 1 |
| 10. | Engineering | 1 |
| 11. | Architectural, Surveying & Planning | 1 |
| 12. | Labour | 3 |
| 13. | Social Welfare | 1 |
| 14. | Real Estate and Construction | 1 |
| 15. | Tourism | 1 |
| 16. | Commercial (First) | 1 |
| 17. | Commercial (Second) | 1 |
| 18. | Industrial (First) | 1 |
| 19. | Industrial (Second) | 1 |
| 20. | Finance | 1 |
| 21. | Financial Services | 1 |
| 22. | Sports, Performing Arts, Culture & Publication | 1 |
| 23. | Import and Export | 1 |
| 24. | Textiles and Garment | 1 |
| 25. | Wholesale and Retail | 1 |
| 26. | Information Technology | 1 |
| 27. | Catering | 1 |
| 28. | District Council | 1 |

附錄 III
Appendix III

B430 2004 年第 54 號法律公告

2004 年第 5 期憲報號外第二號法律副刊

2004 年第 54 號法律公告

現刊登以下解釋，以廣週知——

全國人民代表大會常務委員會
關於《中華人民共和國香港特別行政區基本法》
附件一第七條和附件二第三條的解釋

(2004 年 4 月 6 日第十屆全國人民代表大會
常務委員會第八次會議通過)

第十屆全國人民代表大會常務委員會第八次會議審議了委員長會議關於提請審議《全國人民代表大會常務委員會關於〈中華人民共和國香港特別行政區基本法〉附件一第七條和附件二第三條的解釋(草案)》的議案。經徵詢全國人民代表大會常務委員會香港特別行政區基本法委員會的意見，全國人民代表大會常務委員會決定，根據《中華人民共和國憲法》第六十七條第四項和《中華人民共和國香港特別行政區基本法》第一百五十八條第一款的規定，對《中華人民共和國香港特別行政區基本法》附件一《香港特別行政區行政長官的產生辦法》第七條“二〇〇七年以後各任行政長官的產生辦法如需修改，須經立法會全體議員三分之二多數通過，行政長官同意，並報全國人民代表大會常務委員會批准”的規定和附件二《香港特別行政區立法會的產生辦法和表決程序》第三條“二〇〇七年以後香港特別行政區立法會的產生辦法和法案、議案的表決程序，如需對本附件的規定進行修改，須經立法會全體議員三分之二多數通過，行政長官同意，並報全國人民代表大會常務委員會備案”的規定，作如下解釋：

L. S. NO. 2 TO GAZETTE EXT. NO. 5/2004

L.N. 54 of 2004

B431

L.N. 54 of 2004

This is an English translation of the original instrument in Chinese, and is published for information—

THE INTERPRETATION BY THE STANDING COMMITTEE
OF THE NATIONAL PEOPLE'S CONGRESS OF
ARTICLE 7 OF ANNEX I AND ARTICLE III OF ANNEX II
TO THE BASIC LAW OF THE HONG KONG
SPECIAL ADMINISTRATIVE REGION OF
THE PEOPLE'S REPUBLIC OF CHINA

(Adopted by the Standing Committee of the Tenth National People's
Congress at its Eighth Session on 6 April 2004)

The Standing Committee of the Tenth National People's Congress examined at its Eighth Session the motion regarding the request for examination of “The Draft Interpretation of Article 7 of Annex I and Article III of Annex II to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China” submitted by the Council of Chairmen. Having consulted the Committee for the Basic Law of the Hong Kong Special Administrative Region under the Standing Committee of the National People's Congress, the Standing Committee of the National People's Congress has decided to make, under the provisions of Article 67(4) of the Constitution of the People's Republic of China and Article 158(1) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, an interpretation of the provisions of Article 7 of Annex I “Method for the Selection of the Chief Executive of the Hong Kong Special Administrative Region” to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China regarding “If there is a need to amend the method for selecting the Chief Executives for the terms subsequent to the year 2007, such amendments must be made with the endorsement of a two-thirds majority of all the members of the Legislative Council and the consent of the Chief Executive, and they shall be reported to the Standing Committee of the National People's Congress for approval” and the provisions of Article III of Annex II “Method for the Formation of the Legislative Council of the Hong Kong Special Administrative Region and Its Voting Procedures” regarding “With regard to the method for forming the Legislative Council of the Hong Kong Special Administrative Region and its procedures for voting on bills and motions after 2007, if there is a need to amend the provisions of this Annex, such amendments must be made with the endorsement of a two-thirds majority of all the members of the Council and the consent of the Chief Executive, and they shall be reported to the Standing Committee of the National People's Congress for the record” as follows:

一、上述兩個附件中規定的“二〇〇七年以後”，含二〇〇七年。

二、上述兩個附件中規定的二〇〇七年以後各任行政長官的產生辦法、立法會的產生辦法和法案、議案的表決程序“如需”修改，是指可以進行修改，也可以不進行修改。

三、上述兩個附件中規定的須經立法會全體議員三分之二多數通過，行政長官同意，並報全國人民代表大會常務委員會批准或者備案，是指行政長官的產生辦法和立法會的產生辦法及立法會法案、議案的表決程序修改時必經的法律程序。只有經過上述程序，包括最後全國人民代表大會常務委員會依法批准或者備案，該修改方可生效。是否需要進行修改，香港特別行政區行政長官應向全國人民代表大會常務委員會提出報告，由全國人民代表大會常務委員會依照《中華人民共和國香港特別行政區基本法》第四十五條和第六十八條規定，根據香港特別行政區的實際情況和循序漸進的原則確定。修改行政長官產生辦法和立法會產生辦法及立法會法案、議案表決程序的法案及其修正案，應由香港特別行政區政府向立法會提出。

四、上述兩個附件中規定的行政長官的產生辦法、立法會的產生辦法和法案、議案的表決程序如果不作修改，行政長官的產生辦法仍適用附件一關於行政長官產生辦法的規定；立法會的產生辦法和法案、議案的表決程序仍適用附件二關於第三屆立法會產生辦法的規定和附件二關於法案、議案的表決程序的規定。

現予公告。

1. The phrases “subsequent to the year 2007” and “after 2007” stipulated in the two above-mentioned Annexes include the year 2007.

2. The provisions in the two above-mentioned Annexes that “if there is a need” to amend the method for selecting the Chief Executives for the terms subsequent to the year 2007 or the method for forming the Legislative Council and its procedures for voting on bills and motions after 2007 mean they may be amended or remain unamended.

3. The provisions in the two above-mentioned Annexes that any amendment must be made with the endorsement of a two-thirds majority of all the members of the Legislative Council and the consent of the Chief Executive and shall be reported to the Standing Committee of the National People's Congress for approval or for the record mean the requisite legislative process through which the method for selecting the Chief Executive and the method for forming the Legislative Council and its procedures for voting on bills and motions are amended. Such an amendment may take effect only if it has gone through the said process, including the approval or recording ultimately given or made by the Standing Committee of the National People's Congress in accordance with law. The Chief Executive of the Hong Kong Special Administrative Region shall make a report to the Standing Committee of the National People's Congress as regards whether there is a need to make an amendment; and the Standing Committee of the National People's Congress shall, in accordance with the provisions of Articles 45 and 68 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, make a determination in the light of the actual situation in the Hong Kong Special Administrative Region and in accordance with the principle of gradual and orderly progress. The bills on the amendments to the method for selecting the Chief Executive and the method for forming the Legislative Council and its procedures for voting on bills and motions and the proposed amendments to such bills shall be introduced by the Government of the Hong Kong Special Administrative Region into the Legislative Council.

4. If no amendment is made to the method for selecting the Chief Executive, the method for forming the Legislative Council and its procedures for voting on bills and motions as stipulated in the two above-mentioned Annexes, the provisions relating to the method for selecting the Chief Executive in Annex I will still be applicable to the method for selecting the Chief Executive, and the provisions relating to the method for forming the third term of the Legislative Council in Annex II and the provisions relating to its procedures for voting on bills and motions in Annex II will still be applicable to the method for forming the Legislative Council and its procedures for voting on bills and motions.

This Interpretation is hereby proclaimed.

現刊登以下決定，以廣週知——

**全國人民代表大會常務委員會關於
香港特別行政區 2007 年行政長官和 2008 年立法會
產生辦法有關問題的決定**

2004 年 4 月 26 日第十屆全國人民代表大會
常務委員會第九次會議通過

第十屆全國人民代表大會常務委員會第九次會議審議了香港特別行政區行政長官董建華 2004 年 4 月 15 日提交的《關於香港特別行政區 2007 年行政長官和 2008 年立法會產生辦法是否需要修改的報告》，並在會前徵詢了香港特別行政區全國人大代表、全國政協委員和香港各界人士、全國人大常委會香港特別行政區基本法委員會香港委員、香港特別行政區政府政制發展專責小組的意見，同時徵求了國務院港澳事務辦公室的意見。全國人大常委會在審議中充分注意到近期香港社會對 2007 年以後行政長官和立法會的產生辦法的關注，其中包括一些團體和人士希望 2007 年行政長官和 2008 年立法會全部議員由普選產生的意見。

會議認為，《中華人民共和國香港特別行政區基本法》(以下簡稱香港基本法)第四十五條和第六十八條已明確規定，香港特別行政區行政長官和立法會的產生辦法應根

This is an English translation of the original instrument in Chinese and is published for information——

**DECISION OF THE STANDING COMMITTEE
OF THE NATIONAL PEOPLE'S CONGRESS ON
ISSUES RELATING TO THE METHODS FOR
SELECTING THE CHIEF EXECUTIVE OF THE
HONG KONG SPECIAL ADMINISTRATIVE REGION
IN THE YEAR 2007 AND FOR FORMING
THE LEGISLATIVE COUNCIL OF THE HONG KONG
SPECIAL ADMINISTRATIVE REGION IN THE YEAR 2008**

Adopted by the Standing Committee of the
Tenth National People's Congress at its
Ninth Session on 26 April 2004

The Standing Committee of the Tenth National People's Congress examined at its Ninth Session the "Report on whether there is a need to amend the methods for selecting the Chief Executive of the Hong Kong Special Administrative Region in 2007 and for forming the Legislative Council of the Hong Kong Special Administrative Region in 2008" submitted by Tung Chee-hwa, the Chief Executive of the Hong Kong Special Administrative Region, on 15 April 2004 and, before the Session, had consulted the Hong Kong deputies to the National People's Congress, the Hong Kong members of the National Committee of the Chinese People's Political Consultative Conference, different sectors of Hong Kong, the Hong Kong members of the Committee for the Basic Law of the Hong Kong Special Administrative Region under the Standing Committee of the National People's Congress, and the Constitutional Development Task Force of the Government of the Hong Kong Special Administrative Region, and had also sought the views of the Hong Kong and Macao Affairs Office of the State Council. The Standing Committee of the National People's Congress was, in the course of the examination, fully aware of the recent concerns of the Hong Kong society about the methods for selecting the Chief Executive and for forming the Legislative Council after the year 2007, including the views of some bodies and people that they wish to see the selection of the Chief Executive by universal suffrage in the year 2007 and the election of all the members of the Legislative Council by universal suffrage in the year 2008.

The Session is of the view that Articles 45 and 68 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (hereinafter referred to as "Hong Kong Basic Law") already expressly provide that the methods for selecting the Chief Executive of the Hong Kong Special

據香港特別行政區的實際情況和循序漸進的原則而規定，最終達至行政長官由一個有廣泛代表性的提名委員會按民主程序提名後普選產生，立法會全部議員由普選產生的目標。香港特別行政區行政長官和立法會的產生辦法應符合香港基本法的上述原則和規定。有關香港特別行政區行政長官和立法會產生辦法的任何改變，都應遵循與香港社會、經濟、政治的發展相協調，有利於社會各階層、各界別、各方面的均衡參與，有利於行政主導體制的有效運行，有利於保持香港的長期繁榮穩定等原則。

會議認為，香港特別行政區成立以來，香港居民所享有的民主權利是前所未有的。第一任行政長官由 400 人組成的推選委員會選舉產生，第二任行政長官由 800 人組成的選舉委員會選舉產生；立法會 60 名議員中分區直選產生的議員已由第一屆立法會的 20 名增加到第二屆立法會的 24 名，今年 9 月產生的第三屆立法會將達至 30 名。香港實行民主選舉的歷史不長，香港居民行使參與推選特別行政區行政長官的民主權利，至今不到 7 年。香港回歸祖國以來，立法會中分區直選議員的數量已有相當幅度的增加，在達至分區直選議員和功能團體選舉的議員各佔一半的格局後，對香港社會整體運作的影響，尤其是對行政主導體制的影響尚有待實踐檢驗。加之目前香港社會各界對於 2007 年以後行政長官和立法會的產生辦法如何確定仍存在較大分歧，尚未形成廣泛共識。在此情況下，實現香港基本法第四十五條規定的行政長官由一個

Administrative Region and for forming the Legislative Council of the Hong Kong Special Administrative Region shall be specified in the light of the actual situation in the Hong Kong Special Administrative Region and in accordance with the principle of gradual and orderly progress, and that the ultimate aims are the selection of the Chief Executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures and the election of all the members of the Legislative Council by universal suffrage. 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 shall conform to the above principles and provisions of the Hong Kong Basic Law. Any change 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 shall conform to principles such as being compatible with the social, economic, political development of Hong Kong, being conducive to the balanced participation of all sectors and groups of the society, being conducive to the effective operation of the executive-led system, being conducive to the maintenance of the long-term prosperity and stability of Hong Kong.

The Session is of the view that since the establishment of the Hong Kong Special Administrative Region, Hong Kong residents have enjoyed democratic rights that they have never had before. The first Chief Executive was elected by the Selection Committee, which was composed of 400 members. The second Chief Executive was elected by the Election Committee, which was composed of 800 members. Out of the 60 members of the Legislative Council, the number of members returned by geographical constituencies through direct elections increased from 20 in the Legislative Council in the first term to 24 in the Legislative Council in the second term and will reach 30 in the Legislative Council in the third term to be formed this September. Hong Kong does not have a long history of practising democratic elections. Until now, Hong Kong residents have exercised the democratic right to participate in the selection of the Chief Executive of the Special Administrative Region for less than 7 years. Since the reunification of Hong Kong with the motherland, the number of members of the Legislative Council returned by geographical constituencies through direct elections has already substantially increased. When the set-up is such that half of the members are returned by geographical constituencies through direct elections and half of the members are returned by functional constituencies, the impact on the operation of the Hong Kong society as a whole, especially the impact on the executive-led system, remains to be examined through practice. Further, at present, different sectors of the Hong Kong society still have considerable differences on how to determine the methods for selecting the Chief Executive and for forming the Legislative

有廣泛代表性的提名委員會按民主程序提名後普選產生和香港基本法第六十八條規定的立法會全部議員由普選產生的條件還不具備。

鑑此，全國人大常委會依據香港基本法的有關規定和《全國人民代表大會常務委員會關於〈中華人民共和國香港特別行政區基本法〉附件一第七條和附件二第三條的解釋》，對香港特別行政區 2007 年行政長官和 2008 年立法會的產生辦法決定如下：

一、2007 年香港特別行政區第三任行政長官的選舉，不實行由普選產生的辦法。2008 年香港特別行政區第四屆立法會的選舉，不實行全部議員由普選產生的辦法，功能團體和分區直選產生的議員各佔半數的比例維持不變，立法會對法案、議案的表決程序維持不變。

二、在不違反本決定第一條的前提下，2007 年香港特別行政區第三任行政長官的具體產生辦法和 2008 年香港特別行政區第四屆立法會的具體產生辦法，可按照香港基本法第四十五條、第六十八條的規定和附件一第七條、附件二第三條的規定作出符合循序漸進原則的適當修改。

會議認為，按照香港基本法的規定，在香港特別行政區根據實際情況，循序漸進地發展民主，是中央堅定不移的一貫立場。隨着香港社會各方面的發展和進步，經過香港特別行政區政府和香港居民的共同努力，香港特別行政區的民主制度一定能夠不

Council after the year 2007 and have not come to a broad consensus. In the circumstances, conditions do not exist for the selection of the Chief Executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures as provided for in Article 45 of the Hong Kong Basic Law and the election of all the members of the Legislative Council by universal suffrage as provided for in Article 68 of the Hong Kong Basic Law.

In the light of the above and pursuant to the relevant provisions of the Hong Kong Basic Law and “The Interpretation by the Standing Committee of the National People’s Congress of Article 7 of Annex I and Article III of Annex II to the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China”, the Standing Committee of the National People’s Congress makes the following decision on the methods for selecting the Chief Executive of the Hong Kong Special Administrative Region in the year 2007 and for forming the Legislative Council of the Hong Kong Special Administrative Region in the year 2008:

1. The election of the third Chief Executive of the Hong Kong Special Administrative Region to be held in the year 2007 shall not be by means of universal suffrage. The election of the Legislative Council of the Hong Kong Special Administrative Region in the fourth term in the year 2008 shall not be by means of an election of all the members by universal suffrage. The ratio between members returned by functional constituencies and members returned by geographical constituencies through direct elections, who shall respectively occupy half of the seats, is to remain unchanged. The procedures for voting on bills and motions in the Legislative Council are to remain unchanged.

2. Subject to Article 1 of this Decision not being contravened, appropriate amendments that conform to the principle of gradual and orderly progress may be made to the specific method for selecting the third Chief Executive of the Hong Kong Special Administrative Region in the year 2007 and the specific method for forming the Legislative Council of the Hong Kong Special Administrative Region in the fourth term in the year 2008 according to the provisions of Articles 45 and 68 of the Hong Kong Basic Law and the provisions of Article 7 of Annex I and Article III of Annex II to the Hong Kong Basic Law.

The Session is of the view that developing democracy in the Hong Kong Special Administrative Region in the light of the actual situation and in a gradual and orderly manner according to the provisions of the Hong Kong Basic Law has all along been the resolute and firm stance of the Central Authorities. With the development and progress in all aspects of the Hong Kong society and through the joint endeavours of the Government of the Hong Kong Special Administrative Region and Hong Kong residents, the

斷地向前發展，最終達至香港基本法規定的行政長官由一個有廣泛代表性的提名委員會按民主程序提名後普選產生和立法會全部議員由普選產生的目標。

democratic system of the Hong Kong Special Administrative Region will certainly be able to progress forward incessantly, and ultimately attain the aims of selecting the Chief Executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures and electing all the members of the Legislative Council by universal suffrage provided for in the Hong Kong Basic Law.

**Extract from the Report on Public Consultation
on Green Paper on Constitutional Development**

Chapter Six : Conclusion and Recommendations

Summary of Views

6.01 Regarding the models, roadmap and timetable for implementing universal suffrage for the CE and LegCo, the views received during the Green Paper public consultation period are summarized below.

- (i) The people of Hong Kong have keen expectation for attaining the aim of universal suffrage in accordance with the Basic Law. Members of the public, political parties, LegCo Members, District Councils and different sectors of the community support that the plan for implementing universal suffrage, particularly the universal suffrage timetable, should be determined at an early date. This can help minimize internal debates on constitutional development and will be conducive to the long term stability and development of Hong Kong.

Models for Electing the Chief Executive by Universal Suffrage

- (ii) Regarding the models for electing the CE by universal suffrage, there are relatively more views that the formation of the nominating committee for nominating CE candidates may make reference to the existing Election Committee for electing the CE.
- (iii) Various political parties/groups in LegCo and independent Members support the formation of CE nominating committee by 800 or more than 800 members (for example, by increasing the number of members to 1200 or 1600). Opinion polls have indicated that more respondents consider that the nominating committee should be formed by more than 800 members.
- (iv) There are relatively more views that it would be appropriate to have two to four CE candidates at most.
- (v) The community generally agrees that, after the CE candidates have been nominated in accordance with democratic procedures, the CE should be elected by

universal suffrage on the basis of one-person-one-vote. As to whether one or more rounds of election should be held, and whether the election proceedings should continue if there is only one candidate, further discussions will be necessary.

Models for Forming the Legislative Council by Universal Suffrage

- (vi) As for the models, roadmap and timetable for implementing universal suffrage for LegCo, LegCo, various sectors of the community and the public hold diverse views, and no mainstream view can be formed at this stage.

Roadmap and Timetable for Implementing Universal Suffrage

- (vii) The community generally hopes that progress can be made at an early date regarding the implementation of universal suffrage. Under the circumstances that consensus has not yet been formed on the implementation of universal suffrage for LegCo, different opinion polls have indicated that more than half of the respondents hope that universal suffrage for the CE can precede that for LegCo.
- (viii) Currently, in LegCo, less than half of the Members support the implementation of universal suffrage for the CE and LegCo in 2012. Half of all LegCo Members support that universal suffrage for the CE should be implemented first by no later than 2017, in 2017 or after 2017, and that universal suffrage for LegCo should follow thereafter.
- (ix) Also, motions have been passed in more than two-thirds of all District Councils, supporting that universal suffrage for the CE should be implemented first by no later than 2017 or in 2017, and that universal suffrage for LegCo should follow thereafter.

- (x) Opinion polls have indicated that more than half of the respondents support implementation of universal suffrage for the CE and LegCo in 2012. Among about 18200 written submissions received, about 12600 submissions with the same content (standard responses) support universal suffrage in 2012.
- (xi) At the same time, about 60% of the respondents accept the implementation of universal suffrage for the CE in 2017, if this cannot be attained in 2012¹⁰⁶.
- (xii) As for the timetable for implementing universal suffrage for LegCo, different opinion polls have indicated that more than half of the respondents accept the implementation of universal suffrage for LegCo in 2016 or thereafter, if this cannot be attained in 2012¹⁰⁷.
- (xiii) More than 150000 signatures received from the public have indicated support for implementing universal suffrage for the CE by no later than 2017, in 2017 or after 2017; and among these signatures, more than 130000 have indicated support that universal suffrage for the CE should precede that for LegCo.

Conclusion and Recommendations

6.02 The HKSAR Government established the Task Force on Constitutional Development in 2004 to promote active discussions about Hong Kong's constitutional development within the community. The Task Force put forth a package of proposals in 2005 to enhance the democratic elements of the two electoral methods for 2007/08. In November 2005, we

¹⁰⁶ However, the opinion poll conducted from 2-5 October by the Public Opinion Programme at the University of Hong Kong has indicated that more than half of the respondents support the implementation of universal suffrage for the CE in 2012.

¹⁰⁷ However, the opinion poll conducted from 2-5 October by the Public Opinion Programme at the University of Hong Kong has indicated that more than half of the respondents support the implementation of universal suffrage for LegCo in 2012.

continued to promote discussions within the community on the issue of universal suffrage through the Commission on Strategic Development. Following that, the HKSAR Government consulted the public again on Hong Kong's constitutional development through the release of a green paper – the first time such a vehicle was adopted on the issue of universal suffrage. The community has been engaged in wide-ranging and in-depth discussions. The HKSAR Government has sought to forge consensus within the community through different avenues in order to attain the aim of universal suffrage as early as possible in accordance with the Basic Law.

6.03 The results of this public consultation have indicated that the people of Hong Kong adopt a pragmatic attitude towards the issue of universal suffrage. There is general expectation within the community that the electoral system of the HKSAR can be further democratized and that the ultimate aim of universal suffrage can be attained as early as possible in accordance with the Basic Law. Having considered the views of LegCo, District Councils, organizations and individuals from various sectors, as well as members of the public in totality and, after thorough deliberation, the Chief Executive has come to the view that the community generally hopes that the universal suffrage timetable can be determined early, so as to set the course for Hong Kong's constitutional development. Implementing universal suffrage for the CE first in 2012 is the expectation of more than half of the public, as reflected in the opinion polls; this expectation should be taken seriously and given consideration. At the same time, implementing universal suffrage for the CE first by no later than 2017 will stand a better chance of being accepted by the majority in our community.

6.04 Although there are still diverse views on the models for implementing universal suffrage for the CE within the community, consensus has begun to emerge on taking forward universal suffrage towards the direction of implementing universal suffrage for the CE first, to be followed by that for LegCo. As for the models for forming LegCo by universal suffrage and how the functional constituencies should be dealt with, views are still very diverse. However, setting the timetable for implementing universal suffrage for the CE and LegCo can help promote the ultimate resolution of the issues involved.

- 6.05 On the basis of the above conclusion, the CE considers that, in order to realize the aim of universal suffrage as provided for in the Basic Law, there is a need to amend the methods for selecting the CE and for forming LegCo in 2012.
- 6.06 In accordance with Articles 45 and 68 of the Basic Law, Annexes I and II to the Basic Law, and the Interpretation adopted on 6 April 2004, the CE now requests the Standing Committee of the National People's Congress to confirm that 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 2012 may be amended.

LEGISLATIVE COUNCIL

DECISION OF THE STANDING COMMITTEE OF THE NATIONAL PEOPLE’S CONGRESS 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

INTRODUCTION

This note informs Members of the decision of the Standing Committee of the National People’s Congress (“NPCSC”), which has been promulgated today (i.e. 29 December 2007), on the Chief Executive’s Report on the Public Consultation on Constitutional Development and on whether there is a need to amend the methods for selecting the Chief Executive (“CE”) of the Hong Kong Special Administrative Region (“HKSAR”) and for forming the Legislative Council (“LegCo”) of the HKSAR in 2012. This note also informs Members of the HKSAR Government’s position on the decision and its follow-up work.

BACKGROUND

2. The CE submitted the report to the NPCSC on 12 December 2007 in accordance with “The Interpretation by the NPCSC of Article 7 of Annex I and Article III of Annex II to the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China” (“NPCSC’s Interpretation”). The CE has made the following conclusion and recommendations in his Report to NPCSC.

- (a) The community generally hopes that the universal suffrage timetable can be determined early, so as to set the course for Hong Kong’s constitutional development.
- (b) Implementing universal suffrage for the CE first in 2012 is the expectation of more than half of the public, as reflected in the opinion polls; this expectation should be taken seriously and given consideration.

- (c) At the same time, implementing universal suffrage for the CE first by no later than 2017 will stand a better chance of being accepted by the majority in our community.
- (d) Although there are still diverse views on the models for implementing universal suffrage for the CE within the community, consensus has begun to emerge on taking forward universal suffrage towards the direction of implementing universal suffrage for the CE first, to be followed by that for LegCo.
- (e) As for the models for forming LegCo by universal suffrage and how the functional constituencies should be dealt with, views are still very diverse. However, setting the timetable for implementing universal suffrage for the CE and LegCo can help promote the ultimate resolution of the issues involved.

3. On the basis of the above conclusion, the CE considers that, in order to realize the aim of universal suffrage as provided for in the Basic Law, there is a need to amend the methods for selecting the CE and for forming LegCo in 2012. Accordingly, the CE in his report requested confirmation from the NPCSC that the methods for selecting the CE of the Hong Kong Special Administrative Region and for forming LegCo of the Hong Kong Special Administrative Region in 2012 may be amended.

4. Following the submission of the CE's report to NPCSC, the Chief Secretary for Administration made a statement at the regular sitting of LegCo on the same day. The issue was then discussed at the LegCo Panel on Constitutional Affairs on 17 December and 19 December 2007 respectively. Also, an adjournment debate on this issue was held on 19 December 2007.

The NPCSC's Decision

5. At its 31st session, the NPCSC deliberated on the CE's Report. Pursuant to the relevant provisions of the Basic Law and the NPCSC's Interpretation, the NPCSC has adopted a decision on issues relating to the methods for selecting the Chief Executive and for forming the Legislative Council in the year 2012 and on issues relating to universal suffrage this morning. The decision has been promulgated at around 10am today. The

decision of the NPCSC and the explanations on the draft decision are attached at Annexes A and B respectively for Members' reference.

The HKSAR Government's Position

6. The HKSAR Government welcomes the NPCSC's decision:
 - (a) to accept the CE's recommendation;
 - (b) to determine that appropriate amendments conforming to the principle of gradual and orderly progress may be made to the specific method for selecting the fourth CE and the specific method for forming the fifth term LegCo in the year 2012;
 - (c) to make clear that the election of the fifth CE in the year 2017 may be implemented by the method of universal suffrage; and
 - (d) to make clear that after the CE has been selected by universal suffrage, the election of LegCo may be implemented by the method of electing all the members by universal suffrage.
7. In its decision, the NPCSC states that through the joint efforts of the Government of the HKSAR and the people of Hong Kong, the democratic system of the HKSAR will definitely be able to make progress continuously, and that the aim of the selection of the CE and the election of all the members of LegCo by universal suffrage will be realized in accordance with the Hong Kong Basic Law and the provisions of this decision.
8. The NPCSC also puts forth in its decision that the nominating committee may be formed with reference to the current provisions regarding the Election Committee, and that the nominating committee shall in accordance with democratic procedures nominate a certain number of candidates for the office of the CE, who is to be elected through universal suffrage by all registered electors of the HKSAR, and to be appointed by the Central People's Government.

9. The NPCSC's decision has initiated formally the mechanism for amending the two electoral methods for 2012. In coming to its decision, the NPCSC demonstrated clearly that the Central Authorities had attached great importance to the wishes of Hong Kong people for attaining the aim of universal suffrage in accordance with the Basic Law by making clear the timetable for implementing universal suffrage for selecting the CE and for forming LegCo. The decision will allow the electoral system of the HKSAR to be further democratized in 2012, with a view to attaining universal suffrage for the CE in 2017 and for LegCo in 2020.

Next Stage of Work

10. Following NPCSC's decision, we need to work out how to amend the two electoral methods for 2012. In this regard, we will set up as soon as possible a task group on constitutional development under the Commission on Strategic Development, which will be tasked to consider the most appropriate methods for electing the Chief Executive and for forming the Legislative Council in 2012.

11. The task group will convene its first meeting after the 2008 Lunar New Year to discuss the two electoral methods for 2012 within the framework set out by the NPCSC's decision. We hope that the task group will conclude discussions around mid-2008, so as to allow the HKSAR Government to formulate, in the fourth quarter of 2008, options for amending the two electoral methods for 2012. We will then consult the public on these options as soon as possible.

12. Our aim is to settle the two electoral methods for 2012 within the tenure of the third-term HKSAR Government. This could then lay a solid foundation for attaining universal suffrage for the CE in 2017, and for the LegCo in 2020.

Constitutional and Mainland Affairs Bureau
29 December 2007

This is an English translation of the original Decision in Chinese and is for information only -

Decision of the Standing Committee of the National People's Congress 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

Adopted by the Standing Committee of the Tenth National People's Congress at its Thirty-first Session on 29 December 2007

The Standing Committee of the Tenth National People's Congress considered at its Thirty-first Session the "Report on the Public Consultation on Constitutional Development and on whether there is a need to amend 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 2012" submitted by Tsang Yam-kuen, the Chief Executive of the Hong Kong Special Administrative Region, on 12 December 2007. The Session is of the view that appropriate amendments may be made to the specific method for selecting the fourth Chief Executive and the specific method for forming the fifth term Legislative Council of the Hong Kong Special Administrative Region in the year 2012; that the election of the fifth Chief Executive of the Hong Kong Special Administrative Region in the year 2017 may be implemented by the method of universal suffrage; that after the Chief Executive is selected by universal suffrage, the election of the Legislative Council of the Hong Kong Special Administrative Region may be implemented by the method of electing all the members by universal suffrage. Pursuant to the relevant provisions of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China and "The Interpretation by the Standing Committee of the National People's Congress of Article 7 of Annex I and Article III of Annex II to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China", the Standing Committee of the National People's Congress hereby makes the following decision:

1. The election of the fourth Chief Executive of the Hong Kong Special Administrative Region in the year 2012 shall not be implemented by the method of universal suffrage. The election of the fifth term Legislative Council of the Hong Kong Special Administrative Region 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 Legislative Council 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 Chief Executive of the Hong Kong Special Administrative Region in the year 2012 and the specific method for forming the fifth term Legislative Council of the Hong Kong Special Administrative Region 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 Hong Kong Special Administrative Region of the People's Republic of China.

2. At an appropriate time prior to the selection of the Chief Executive of the Hong Kong Special Administrative Region by universal suffrage, the Chief Executive shall make a report to the Standing Committee of the National People's Congress as regards the issue of amending the method for selecting the Chief Executive in accordance with the relevant provisions of the Hong Kong Basic Law and "The Interpretation by the Standing Committee of the National People's Congress of Article 7 of Annex I and Article III of Annex II to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China"; a determination thereon shall be made by the Standing Committee of the National People's Congress. The bills on the amendments to the method for selecting the Chief Executive and the proposed amendments to such bills shall be introduced by the Government of the Hong Kong Special Administrative Region to the Legislative Council; such amendments must be made with the endorsement of a two-thirds majority of all the members of the Legislative Council and the consent of the Chief Executive and they shall be reported to the Standing Committee of the National People's Congress for approval.
3. At an appropriate time prior to the election of all the members of the Legislative Council of the Hong Kong Special Administrative Region by universal suffrage, the Chief

Executive shall make a report to the Standing Committee of the National People's Congress as regards the issue of amending the method for forming the Legislative Council and the issue of whether any corresponding amendment should be made to the procedures for voting on bills and motions in the Legislative Council in accordance with the relevant provisions of the Hong Kong Basic Law and "The Interpretation by the Standing Committee of the National People's Congress of Article 7 of Annex I and Article III of Annex II to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China"; a determination thereon shall be made by the Standing Committee of the National People's Congress. The bills on the amendments to the method for forming the Legislative Council and its procedures for voting on bills and motions and the proposed amendments to such bills shall be introduced by the Government of the Hong Kong Special Administrative Region to the Legislative Council; such amendments must be made with the endorsement of a two-thirds majority of all the members of the Legislative Council and the consent of the Chief Executive and they shall be reported to the Standing Committee of the National People's Congress for the record.

4. If no amendment is made to the method for selecting the Chief Executive, the method for forming the Legislative Council or its procedures for voting on bills and motions in accordance with the legal procedures, the method for selecting the Chief Executive used for the preceding term shall continue to apply, and the method for forming the Legislative Council and the procedures for voting on bills and motions used for the preceding term shall continue to apply.

The Session is of the view that in accordance with the provisions of Article 45 of the Hong Kong Basic Law, in selecting the Chief Executive of the Hong Kong Special Administrative Region 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 Hong Kong Basic Law. The nominating committee shall in accordance with democratic procedures nominate a certain number of candidates for the office of the Chief Executive, who is to be elected through universal suffrage by all registered electors of the Hong Kong Special

Administrative Region, and to be appointed by the Central People's Government.

The Session is of the view that with the joint efforts of the Government of the Hong Kong Special Administrative Region and the people of Hong Kong, the democratic system of the Hong Kong Special Administrative Region will definitely make progress continuously, and that the aim of the selection of the Chief Executive and the election of all the members of the Legislative Council by universal suffrage will be realized in accordance with the Hong Kong Basic Law and this Decision.

This is an English translation of the original explanations in Chinese and is for information only –

The Explanations on the Draft Decision of the Standing Committee of the National People's Congress 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

At the Thirty-first Session of the Standing Committee of the Tenth National People's Congress in the Afternoon of 26 December 2007

Deputy Secretary-General of the Standing Committee of the National People's Congress, Mr Qiao Xiaoyang

Chairman, Vice-Chairmen, Secretary-General, Members,

I am now entrusted by the meeting of Chairmen to provide explanations for “The Draft Decision of the Standing Committee of the National People's Congress 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”.

Pursuant to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (hereinafter referred to as “Hong Kong Basic Law”) and “The Interpretation by the Standing Committee of the National People's Congress of Article 7 of Annex I and Article III of Annex II to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China” (hereinafter referred to as “The Interpretation”), on 12 December, Tsang Yam-kuen, the Chief Executive of the Hong Kong Special Administrative Region submitted to the Standing Committee of the National People's Congress the “Report on the Public Consultation on Constitutional Development and on whether there is a need to amend 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 2012” (hereinafter referred to as “the Chief Executive's Report”). On 17 December, the meeting of Chairmen decided to include the Chief Executive's Report in the agenda of the Thirty-first Session of the Standing Committee of the Tenth National

People's Congress, and sent the Chief Executive's Report to the State Council to seek its advice. On 24 December, the Standing Committee of the National People's Congress held group consideration of the Chief Executive's Report.

The unanimous view of the members of the Standing Committee of the National People's Congress is that, since Hong Kong has returned to the motherland for more than ten years, Hong Kong's constitutional development has kept on progressing, in accordance with the provisions of the Hong Kong Basic Law, in a gradual and orderly manner, and Hong Kong compatriots have enjoyed democratic rights that they have never had before. The issue of advancing the constitutional development of Hong Kong further concerns the comprehensive implementation of the basic policy of the "One Country, Two Systems" principle and the Hong Kong Basic Law, the relationship between the Central Authorities and the Hong Kong Special Administrative Region, the interests of various strata, sectors and the general public of Hong Kong, as well as the long term stability and prosperity of Hong Kong; it is an important issue that should be handled with great care. The members of the Standing Committee of the National People's Congress are of the view that the Chief Executive's Report quite comprehensively reflects the views and aspirations expressed by the Hong Kong community on the issue of constitutional development. The Report is proactive, responsible and pragmatic. It reflects the general views and aspirations within the Hong Kong community that "the universal suffrage timetable should be determined at an early date"; that "universal suffrage for the Chief Executive can precede that for the Legislative Council"; that "implementing universal suffrage for the Chief Executive first by no later than 2017 will stand a better chance of being accepted by the majority in the community"; that "the formation of the nominating committee for nominating Chief Executive candidates may make reference to the existing Election Committee for electing the Chief Executive"; that "it would be appropriate to have two to four Chief Executive candidates at most"; that "as for the models, roadmap and timetable for implementing universal suffrage for the Legislative Council, the Legislative Council, various sectors of the community and the public hold diverse views, and no mainstream view can be formed at this stage", etc. The views contained in the Report are objective and reflective of the actual situation. The majority view expressed during the consideration is that constitutional development has become a focal issue attracting public attention and caused some conflicts within the Hong Kong community in recent years. With a view to enabling the Hong Kong community to concentrate its efforts on developing the economy and improving

livelihood, to make a decision on the issue of constitutional development now, to make clear that appropriate amendments may be made to the methods for the selection of the Chief Executive and the formation of the Legislative Council in the year 2012, and to make clear the timetable for the selection of the Chief Executive and the election of all the members of the Legislative Council by universal suffrage, are necessary, practicable, and justified on ample legal basis. The Hong Kong and Macao Affairs Office of the State Council is of the view that, since the Hong Kong community has shown a keen interest in the issue of constitutional development and the issue has been under discussion for many years, appropriate amendments may be made, in accordance with the principles stipulated in the Decision adopted by the Standing Committee of the National People's Congress on 26 April 2004, to the methods for selecting the Chief Executive and for forming the Legislative Council in the year 2012; that in the year 2017 the fifth Chief Executive may be elected by universal suffrage, and thereafter, all the members of the Legislative Council may be elected by universal suffrage.

Acting in accordance with the provisions of the Hong Kong Basic Law and the views of the members of the Standing Committee of the National People's Congress, and having taken into full account the views of the Hong Kong and Macao Affairs Office of the State Council and the Chief Executive's Report, the meeting of Chairmen introduced "The Draft Decision of the Standing Committee of the National People's Congress 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". I now provide an explanation on the Draft Decision as follows.

1. The amendments to the methods for selecting the Chief Executive and for forming the Legislative Council in the year 2012

Annex I and Annex II to the Hong Kong Basic Law provide that, if there is a need, amendments may be made to the methods for selecting the Chief Executive and for forming the Legislative Council after the year 2007, and have prescribed the process through which amendments are made. In order to move Hong Kong's constitutional development forward, the Standing Committee of the Tenth National People's Congress at its Ninth Session in April 2004, adopted, on the basis of the Chief Executive's Report, "The Decision on Issues Relating to the Methods for

Selecting the Chief Executive of the Hong Kong Special Administrative Region in the year 2007 and for Forming the Legislative Council of the Hong Kong Special Administrative Region in the Year 2008". Pursuant to the Decision and having extensively consulted various sectors of the Hong Kong community, the Government of the Hong Kong Special Administrative Region introduced in October 2005 a bill on the amendments to the methods for selecting the Chief Executive in the year 2007 and for forming the Legislative Council in the year 2008. However, the bill on the amendments was not endorsed by a two-thirds majority of all the members of the Legislative Council. Thereafter, the Government of the Hong Kong Special Administrative Region, through the Commission on Strategic Development, continued to promote wide-ranging discussions about the issue of Hong Kong's constitutional development. On this basis, it published the Green Paper on Constitutional Development in July this year and conducted a three-month public consultation exercise. On the basis of the public consultation exercise, the Chief Executive submitted a report to the Standing Committee of the National People's Congress, requesting it to confirm that the methods for selecting the Chief Executive and for forming the Legislative Council in the year 2012 may be amended.

In accordance with the provisions of the Hong Kong Basic Law, the views of the members of the Standing Committee of the National People's Congress and other views, the first Article of the Draft Decision provides that: "The election of the fourth Chief Executive of the Hong Kong Special Administrative Region in the year 2012 shall not be implemented by the method of universal suffrage. The election of the fifth term Legislative Council of the Hong Kong Special Administrative Region 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 Legislative Council 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 Chief Executive of the Hong Kong Special Administrative Region in the year 2012 and the specific method for forming the fifth term Legislative Council of the Hong Kong Special Administrative Region 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 Hong Kong Special Administrative

Region of the People's Republic of China." The major considerations with regard to this provision in the Draft Decision are:

First, in accordance with the provisions of the Hong Kong Basic Law, the methods for selecting the Chief Executive and for forming the Legislative Council are specified in the light of the actual situation in the Hong Kong Special Administrative Region and in accordance with the principle of gradual and orderly progress, so as to attain the ultimate aim of selecting the Chief Executive and electing all the members of the Legislative Council by universal suffrage. There is general expectation within the Hong Kong community that progress can be made to the methods for selecting the Chief Executive and for forming the Legislative Council in the year 2012. Under the circumstances that the bill on the amendments to the methods for selecting the Chief Executive in the year 2007 and for forming the Legislative Council in the year 2008 was not endorsed by the Legislative Council of the Hong Kong Special Administrative Region, in accordance with the aforementioned provisions under the Hong Kong Basic Law, appropriate amendments that conform to the principle of gradual and orderly progress may be made to the methods for selecting the Chief Executive and for forming the Legislative Council in the year 2012. This may serve as a midway station en route to universal suffrage, which will be conducive to a stable transition to universal suffrage. Therefore, the Draft Decision provides that the election of the fourth Chief Executive of the Hong Kong Special Administrative Region in the year 2012 shall not be implemented by the method of universal suffrage; that the election of the fifth term Legislative Council of the Hong Kong Special Administrative Region in the year 2012 shall not be implemented by the method of electing all the members by universal suffrage. Subject to the aforementioned, appropriate amendments conforming to the principle of gradual and orderly progress may be made.

Second, the public consultation shows that in the Legislative Council, less than half of the members support the implementation of "dual universal suffrage" in the year 2012, half of the members support that universal suffrage for the Chief Executive should be implemented first by no later than 2017, in 2017 or after 2017, and that universal suffrage for the Legislative Council should follow thereafter. In the 18 District Councils, motions have been passed in more than two-thirds of all District Councils, supporting that universal suffrage for the Chief Executive should be implemented first by no later than 2017 or in 2017, and that universal suffrage for the Legislative Council should follow thereafter. Opinion polls have indicated that, although more than half of

the respondents support implementation of universal suffrage for the Chief Executive and the Legislative Council in 2012, at the same time, about 60% of the respondents accept the implementation of universal suffrage for the Chief Executive in 2017, if this cannot be attained in 2012; more than half of the respondents accept the implementation of universal suffrage for the Legislative Council in 2016 or thereafter, if this cannot be attained in 2012. More than 150000 signatures received from the public have indicated support for implementing universal suffrage for the Chief Executive by no later than 2017, in 2017 or after 2017; and among these signatures, more than 130000 have indicated support that universal suffrage for the Chief Executive should precede that for the Legislative Council. In summarizing the results of the consultation in his report, the Chief Executive concluded: "implementing universal suffrage for the CE first by no later than 2017 will stand a better chance of being accepted by the majority in our community". With this in mind, the members of the Standing Committee of the National People's Congress are generally of the view that "dual universal suffrage" for selecting the Chief Executive and for forming the Legislative Council, or "single universal suffrage" for either one, shall not be implemented in the year 2012, and that making amendments in a gradual and orderly manner has public support and is appropriate.

Third, the relevant provisions of the Hong Kong Basic Law on the electoral method of the functional constituencies of the Legislative Council are a system put in place in the light of the actual situation of Hong Kong. It has been functioning smoothly, and experience has demonstrated that it is conducive to the balanced participation of various strata and sectors of Hong Kong and the development of the capitalist economy. As there are diverse views on how to improve on the electoral system of the functional constituencies within the Hong Kong community, rendering it difficult to form any mainstream view, it would not be appropriate to change the concerned electoral arrangements at this stage. Hence, the Draft Decision has provided that 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 Legislative Council, as provided for in Annex II to the Hong Kong Basic Law, are in keeping with the electoral system of the functional constituencies. Hence, the Draft Decision has provided that the procedures for voting on bills and motions in the Legislative Council are to remain unchanged.

2. The timetable for implementing universal suffrage for the Chief Executive and Legislative Council

Paragraph 2 of Article 45 of the Hong Kong Basic Law provides: “The method for selecting the Chief Executive shall be specified in the light of the actual situation in the Hong Kong Special Administrative Region and in accordance with the principle of gradual and orderly progress. The ultimate aim is the selection of the Chief Executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures”. Paragraph 2 of Article 68 provides: “The method for forming the Legislative Council shall be specified in the light of the actual situation in the Hong Kong Special Administrative Region and in accordance with the principle of gradual and orderly progress. The ultimate aim is the election of all the members of the Legislative Council by universal suffrage.” In the last few years, the Hong Kong public have shown a keen interest in the timeframe for implementing universal suffrage for the selection of the Chief Executive and for returning all the members of the Legislative Council. They have also expressed the hope that the timetable for universal suffrage be made clear. The public consultation conducted by the Hong Kong Special Administrative Region Government also indicates that differences of opinion on this issue are being narrowed. In accordance with the provisions of the Basic Law and the views of the members of the Standing Committee of the National People’s Congress and other parties, the Draft Decision proposes a timetable concerning Hong Kong’s constitutional development, that is “the election of the fifth Chief Executive of the Hong Kong Special Administrative Region in the year 2017 may be implemented by the method of universal suffrage; that after the Chief Executive is selected by universal suffrage, the election of the Legislative Council of the Hong Kong Special Administrative Region may be implemented by the method of electing all the members by universal suffrage”. The major considerations with regard to the timetable arrangement as put forth in the Draft Decision are:

First, the ultimate aim of selecting the Chief Executive and electing all the members of the Legislative Council by universal suffrage is provided for in the Hong Kong Basic Law. This is a solemn commitment given by the Central Government. By making clear the timeframe for realizing this aim at an appropriate time, this is in line with the consistent position of the Central Government in supporting the democratic development of Hong Kong – not only is this a sincere response to the relevant expectation of the Hong Kong community, but it is also an

important step to realize the implementation of the basic policy of “One Country, Two Systems” and the Hong Kong Basic Law.

Second, the public consultation shows that there is an overall expectation among the Hong Kong community for the universal suffrage timetable to be determined at an early date. In summarizing the results of the consultation in his report, the Chief Executive concluded: “Having considered the views of the Legislative Council, District Councils, organizations and individuals from various sectors, as well as members of the public in totality and, after thorough deliberation, I have come to the view that the community generally hopes that the universal suffrage timetable can be determined early, so as to set the course for Hong Kong’s constitutional development.” By making clear the universal suffrage timetable and clarifying the way forward for Hong Kong’s constitutional development, we will enable all parties concerned to work towards this ultimate aim collectively, reduce contentions within the Hong Kong community, focus energies on furthering economic development, improve livelihood and promote the long term prosperity and stability of Hong Kong.

Third, as “dual universal suffrage” will not be implemented for electing the Chief Executive and Legislative Council in 2012, 2017 is the earliest possible date for commencing the implementation of universal suffrage. By 2017, Hong Kong will have returned to the motherland for twenty years. The timeframe provided in the Hong Kong Basic Law that “the previous capitalist system and way of life shall remain unchanged for 50 years” in the Hong Kong Special Administrative Region will have entered its median phase. By that time, quite a number of elections for the Chief Executive and the Legislative Council will have been held, and much valuable experience will have been gained through gradual and orderly progress. The decision that universal suffrage for selecting the Chief Executive and for the election of all the members of the Legislative Council by universal suffrage may respectively take place in 2017 and thereafter, is consistent with the principle of gradual and orderly progress and in keeping with the actual situation in Hong Kong. This is a very progressive arrangement.

Fourth, the Draft Decision provides that universal suffrage for electing the Chief Executive may be implemented first in 2017, and that the election of all the members of the Legislative Council by universal suffrage may follow thereafter; this is based on two considerations: first, this takes into account the fact that the Basic Law has already provided a framework for universal suffrage for the Chief Executive, that is: “the

selection of the Chief Executive by a broadly representative nominating committee in accordance with democratic procedures”; the Hong Kong community also has considerable consensus in this regard. As to how all the members of the Legislative Council are to be elected through universal suffrage, the Hong Kong Basic Law has not laid down specific provisions; the Hong Kong community also have relatively divergent views on this, and more time is required for discussions and deliberations. Second, the selection of the Chief Executive and the election of all the members of the Legislative Council by universal suffrage is an important constitutional development reform. If both were implemented at the same time, this would give rise to major ramifications and would not be conducive to proper implementation of constitutional reform and maintenance of social stability. The Hong Kong Basic Law provides an executive-led political structure for the Hong Kong Special Administrative Region. By implementing universal suffrage for the Chief Executive first, this will be conducive to preservation of the executive-led system and the better management of executive-legislature relations.

3. The legal procedures for amending the method for the selection of the Chief Executive and the formation of the Legislative Council by universal suffrage

According to the provisions of Annex I and Annex II to the Hong Kong Basic Law and the interpretation thereof, the amendments to both the method for selecting the Chief Executive and the method for forming the Legislative Council should go through five steps each time: first, the Chief Executive shall make a report to the Standing Committee of the National People’s Congress; second, the Standing Committee of the National People’s Congress shall make a determination as to whether there is a need to make an amendment; third, the bills on the amendments to the method for selecting the Chief Executive and the method for forming the Legislative Council shall be introduced by the Government of the Hong Kong Special Administrative Region and shall be made with the endorsement of a two-thirds majority of all the members of the Legislative Council; fourth, the Chief Executive should consent to the amendments made by the Legislative Council for selecting the Chief Executive and for forming the Legislative Council; fifth, the Chief Executive should report the amendments to the Standing Committee of the National People’s Congress for the Standing Committee to approve or to record. After this Decision is made, the first two of the five steps for making amendments to the method for selecting the Chief Executive and the Legislative Council in the year 2012 will have been completed. In future, when universal suffrage is implemented for the Chief Executive

and the Legislative Council, the amendments to the two electoral methods will also have to be taken forward according to the above-mentioned five steps. Thus, Article 2 and Article 3 of the Draft Decision provide that at an appropriate time prior to the selection of the Chief Executive by universal suffrage and the election of all the members of the Legislative Council by universal suffrage, the Chief Executive shall make a report to the Standing Committee of the National People's Congress in accordance with the Hong Kong Basic Law and the interpretation thereof, for the Standing Committee of the National People's Congress to make a determination. The bills and the proposed amendments to such bills to amend the methods for selecting the Chief Executive and for forming the Legislative Council and the procedures for voting on bills and motions shall be introduced by the Government of the Hong Kong Special Administrative Region to the Legislative Council; the amendments shall be made with the endorsement of a two-thirds majority of all the members of the Legislative Council and the consent of the Chief Executive and shall be reported to the Standing Committee of the National People's Congress for approval or for the record.

4. The continued application of current provisions if the methods for selecting the Chief Executive and for forming the Legislative Council are not amended

It is a general principle of law that the original legal provisions will continue to apply where new provisions have not been passed. The Interpretation of the Standing Committee of the National People's Congress of Article 7 of Annex I and Article III of Annex II to the Hong Kong Basic Law in 2004 provides that if no amendment is made to the method for selecting the Chief Executive, the method for forming the Legislative Council and its procedures for voting on bills and motions, the original two electoral methods and the procedures for voting on bills and motions will still be applicable. Article 4 of the Draft Decision reiterates the relevant part of the above Interpretation of the Standing Committee of the National People's Congress in 2004 and provides that "if no amendment is made to the method for selecting the Chief Executive, the method for forming the Legislative Council or its procedures for voting on bills and motions in accordance with the legal procedures, the method for selecting the Chief Executive used for the preceding term shall continue to apply, and the method for forming the Legislative Council and the procedures for voting on bills and motions used for the preceding term shall continue to apply".

5. The formation of the nominating committee when the Chief Executive is selected by universal suffrage

According to Paragraph 2 of Article 45 of the Hong Kong Basic Law, when the Chief Executive is selected by universal suffrage, candidates shall be nominated by a broadly representative nominating committee in accordance with democratic procedures. As to how the nominating committee should be formed, it is stated in the Chief Executive's Report that "there are relatively more views that the formation of the nominating committee for nominating CE candidates may make reference to the existing Election Committee for electing the CE"; "there are relatively more views that it would be appropriate to have two to four CE candidates at most."

Based on the views of the members of the Standing Committee of the National People's Congress and other parties, the Draft Decision has provided that: "in accordance with the provisions of Article 45 of the Hong Kong Basic Law, in selecting the Chief Executive of the Hong Kong Special Administrative Region 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 Hong Kong Basic Law. The nominating committee shall in accordance with democratic procedures nominate a certain number of candidates for the office of the Chief Executive, who is to be elected through universal suffrage by all registered electors of the Hong Kong Special Administrative Region, and to be appointed by the Central People's Government." The major considerations with regard to the Draft Decision making clear this particular aspect are: first, making it clear that the nominating committee may be formed with reference to the current provisions regarding the Election Committee is based on the fact that the formation of the Election Committee for electing the Chief Executive was the consensus achieved after wide consultation and discussion during the drafting process of the Hong Kong Basic Law, and this had consolidated wisdom from all sides, and had considerable public support and acceptance. Second, since Hong Kong's reunification with the motherland, election of the Chief Executive by the Election Committee has taken place three times and the operation has been smooth. Experience has demonstrated that the kind of composition of the Election Committee has enabled balanced participation of various strata and sectors to be achieved, and is broadly representative. Third, there are relatively more views within the Hong Kong community that the formation of the nominating committee may make reference to that of the

Election Committee; making it clear that the nominating committee may make specific reference to the Election Committee will be conducive to forging consensus within the community on the method for selecting the Chief Executive by universal suffrage. Fourth, with regard to the appropriate number of Chief Executive candidates, this can be further discussed within the Hong Kong community. Hence, the Draft Decision only puts forth, in principle, that the nominating committee shall in accordance with democratic procedures nominate a certain number of candidates for the office of the Chief Executive.

In view of the fact that the Hong Kong community still hold diverse views on how the Legislative Council should be formed by universal suffrage, this has to be further discussed. Hence, the Draft Decision does not cover this issue.

You are kindly requested to consider whether “The Draft Decision of the Standing Committee of the National People’s Congress 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” and the above Explanations are in order.

Relevant motions moved for debate in Council
(since First LegCo)

| <u>Date of Council meeting</u> | <u>Motion</u> |
|---|---|
| 15 July 1998 | Hon Andrew CHENG Kar-foo moved a motion on "Direct elections" for debate in Council. The motion was negated. |
| 12 January 2000 | Hon Emily LAU Wai-hing moved a motion on "Political reform" for debate in Council. The motion was passed. |
| 14 June 2000 | Dr Hon LEONG Che-hung moved a motion on "Development of the Hong Kong Special Administrative Region's Political System" for debate in Council. The motion was passed. |
| 13 March 2002 | Hon Emily LAU Wai-hing moved a motion on "The Second Chief Executive Election" for debate in Council. The motion was negated. |
| 19 February 2003 | Hon Emily LAU Wai-hing moved a motion on "Public consultation on constitutional reforms" for debate in Council. The motion was negated. |
| 21 May 2003 | Hon Albert HO Chun-yan moved a motion on "Expediently implementing the election of the Chief Executive and All Members of the Legislative Council by universal suffrage" for debate in Council. The motion was negated. |
| 12 November 2003 | Hon James TO Kun-sun moved a motion on "Election of the Chief Executive and all Members of the Legislative Council by universal suffrage" for debate in the Council. The motion was negated. |
| 25 February 2004 | Hon Andrew CHENG Kar-foo moved a motion on "Immediately consulting the public on election by universal suffrage" for debate in Council. The motion was negated. |
| 17 March 2004 | Hon James TO Kun-sun moved a motion on "Respecting and complying with the principles prescribed in the Basic Law" for debate in Council. The motion was negated. |

**Date of
Council meeting**

Motion

| | |
|------------------|--|
| 22 April 2004 | Hon Frederick FUNG Kin-kee moved a motion to adjourn the Council for the purpose of debating the Report by the Chief Executive of the Hong Kong Special Administrative Region to the Standing Committee of the National People's Congress on whether there is a need to amend the methods for selecting the Chief Executive of the Hong Kong Special Administrative Region in 2007 and for forming the Legislative Council of the Hong Kong Special Administrative Region in 2008. The motion was negated. |
| 5 May 2004 | Hon Frederick FUNG Kin-kee moved a motion on "Requesting the Chief Executive to submit a supplementary report to the Standing Committee of the National People's Congress" for debate in Council. The motion was negated. |
| 19 May 2004 | Hon Albert HO Chun-yan moved a motion on "Regretting the decision of the Standing Committee of the National People's Congress to rule out universal suffrage in the years 2007 and 2008" for debate in Council. The motion was negated. |
| 10 November 2004 | Hon Ronny TONG Ka-wah moved a motion on "Constitutional development" for debate in Council. The motion was negated. |
| 5 January 2005 | Hon Albert Jinghan CHENG moved a motion on "The Fourth Report of the Constitutional Task Force" for debate in Council. The motion was negated. |
| 9 March 2005 | Hon Ronny TONG Ka-wah moved a motion on "Shortcomings of Functional Constituencies" for debate in Council. The motion was negated. |
| 9 November 2005 | Hon Ronny TONG Ka-wah moved a motion on "Constitutional Reform Proposal" for debate in Council. The motion was negated. |
| 30 November 2005 | Hon LEUNG Kwok-hung moved a motion on "Conducting a referendum on the full implementation of elections by universal suffrage in 2007 and 2008" for debate in Council. The motion was negated. |
| 7 December 2005 | Dr Hon YEUNG Sum moved a motion on "Democratic political system" for debate in Council. The motion was negated. |

**Date of
Council meeting**

Motion

- | | |
|------------------|--|
| 21 December 2005 | Secretary for Constitutional Affairs moved two motions on "The Amendment to the Method for the Selection of the Chief Executive" and "The Amendment to the Method for the Formation of the Legislative Council". The two motions were negatived. |
| 22 November 2006 | Hon Ronny TONG moved a motion on "Electing the Chief Executive by universal suffrage" for debate in Council. The motion was negatived. |
| 29 November 2006 | Hon LEE Cheuk-yan moved a motion on "Electing the Legislative Council by universal suffrage" for debate in Council. The motion was negatived. |
| 9 January 2008 | Hon Albert CHAN moved a motion on "Report on Public Consultation on Green Paper on Constitutional Development" for debate in Council. The motion was negatived. |

Appendix VIII

Relevant questions raised in Council (since First LegCo)

| <u>Date of Council meeting</u> | <u>Question</u> |
|---|--|
| 8 December 1999 | Hon Emily LAU Wai-hing raised a question on "Modifying the electoral systems". |
| 13 June 2001 | Hon Martin LEE Chu-ming raised a question on "Improvement on method of forming the Legislative Council". |
| 13 November 2002 | Hon Emily LAU Wai-hing raised a question on "Arrangements for the Legislative Council functional constituencies elections". |
| 8 October 2003 | Dr Hon YEUNG Sum raised a question on "Timetable for review on political system". |
| 18 February 2004 | Hon Michael MAK Kwok-fung raised a question on "Constitutional development of Hong Kong". |
| 2 June 2004 | Hon Martin LEE Chu-ming raised a question on "Interpretation of the Basic Law and decision on issues relating to the methods for selecting the Chief Executive in 2007 and for forming the Legislative Council in 2008 by the Standing Committee of the National People's Congress". |
| 9 June 2004 | Hon SZETO Wah raised a question on "The report submitted by the Chief Executive to the Standing Committee of the National People's Congress". |
| 9 June 2004 | Hon Audrey EU Yuet-mee raised a question on "Registered voters of the functional constituencies". |
| 10 November 2004 | Dr Hon YEUNG Sum raised a question on "Constitutional development". |
| 26 January 2005 | Hon Frederick FUNG Kin-kee raised a question on "Returning of some LegCo Members by functional constituencies". |
| 19 October 2005 | Dr Hon YEUNG Sum raised a question on "Political reform". |
| 30 November 2005 | Hon LEE Wing-tat raised a question on "Position and Reaction of Middle Class Towards Universal Suffrage". |

**Date of
Council meeting**

Question

| | |
|------------------|--|
| | Hon MA Lik raised a question on "Expansion of Election Committee". |
| 7 December 2005 | Hon LEE Wing-tat raised a question on "Collecting Public Views on Constitutional Development". |
| 21 December 2005 | Hon Martin LEE raised a question on "Establishment of Bicameral System in Hong Kong". |
| 17 May 2006 | Hon Emily LAU raised a question on "Conditions for Implementation of Universal Suffrage in Hong Kong". |
| 14 June 2006 | Hon Emily LAU raised a question on "Dual Elections by Universal Suffrage". |
| 24 January 2007 | Hon LEE Wing-tat raised a question on "Commenting on Constitutional Development of Hong Kong". |
| 23 May 2007 | Hon LEUNG Yiu-chung raised a question on "Universal Suffrage Proposals". |
| 20 June 2007 | Hon Emily LAU raised a question on "Election of Chief Executive by Universal Suffrage". |
| 27 June 2007 | Hon Ronny TONG raised question on "Democratic Development for HKSAR". |
| | Hon LEE Cheuk-yan raised a question on "Qualification for Candidacy of Chief Executive to be Selected by Universal Suffrage". |
| | Hon Alan LEONG raised a question on "Options for Universal Suffrage". |
| 23 January 2008 | Hon Emily LAU raised a question on "Implementation of Universal Suffrage for Chief Executive and Legislative Council in 2012". |

**Research reports relating to constitutional development prepared by
the Research and Library Services Division**

| LC Paper No. | Papers |
|----------------------------|--|
| RP03-09/99-00 | -- Research Reports on Systems of Government in Some Foreign Countries : Singapore , New Zealand , Germany , The United Kingdom , Japan , France , The United States |
| RP10/99-00 | -- The Overall Comparison Table on Systems of Government in Some Foreign Countries |
| IN11/03-04 | -- Information Note on “The Selection of Head of State and Head of Government in Selected Places” |
| IN16/03-04 | -- Information Note on "Functional Representation in Ireland, Slovenia and France" |
| IN19/05-06 | -- Information Note on "Summary of Electoral Systems in Selected Places" |
| IN24/05-06 | -- Information Note on "Functional Representation in Ireland and Slovenia" |
| IN25/05-06 | -- Information Note on "Compliance of the Electoral System of the Legislature with the International Covenant on Civil and Political Rights: New Zealand" |
| FS14/05-06 | -- Fact Sheet on "Nationality Requirement of Legislators in Selected Countries" |
| IN34/05-06 | -- Information Note on "Compliance of the Electoral System of the Legislature with the International Covenant on Civil and Political Rights: Germany" |

Constitutional development

Relevant documents

| <u>Date</u> | <u>Context</u> | <u>Paper</u> |
|-------------------------|---------------------------------|---|
| 14 June 2000 | Council meeting | Report of the Panel on Constitutional Affairs on the development of the political system of the Hong Kong Special Administrative Region |
| 12 June and 9 July 2001 | Panel on Constitutional Affairs | Background brief on "Development of the Hong Kong Special Administrative Region's Political System" prepared by the LegCo Secretariat [LC Paper No. CB(2)1767/00-01(01)] Administration's paper on "Development of the Political System of the Hong Kong Special Administrative Region" [LC Paper No. CB(2)1763/00-01(05)] |
| 20 October 2003 | Panel on Constitutional Affairs | Administration's paper on "Review and Public Consultation on Constitutional Development after 2007" [LC Paper No. CB(2)119/03-04(02)] |
| 17 November 2003 | Panel on Constitutional Affairs | Administration's paper on "Review of and Public Consultation on Constitutional Development after 2007 – Preparatory Work" [LC Paper No. CB(2)337/03-04(01)] |
| 27 February 2004 | House Committee | Background brief on "Review on constitutional development after 2007" prepared by the LegCo Secretariat [LC Paper No. CB(2)1445/03-04] Constitutional Development Task Force's paper on "Work Progress of the Constitutional Development Task Force" [LC Paper No. CB(2)1459/03-04(03)] |
| 31 March 2004 | Panel on Constitutional Affairs | The First Report of the Constitutional Development Task Force : Issues of Legislative Process in the Basic Law Relating to Constitutional Development |
| 16 April 2004 | Panel on Constitutional Affairs | The Report by the Chief Executive of the Hong Kong Special Administrative Region to the Standing Committee of the National People's Congress on whether there is a need to amend the |

| <u>Date</u> | <u>Context</u> | <u>Paper</u> |
|-----------------|---------------------------------|---|
| | | <p>methods for selecting the Chief Executive of the Hong Kong Special Administrative Region in 2007 and for forming the Legislative Council of the Hong Kong Special Administrative Region in 2008</p> <p>The Second Report of the Constitutional Development Task Force : Issues of Principle in the Basic Law Relating to Constitutional Development</p> |
| 19 April 2004 | Panel on Constitutional Affairs | <p>Gazette copy of the Interpretation adopted by the Standing Committee of the National People's Congress on Article 7 of Annex I and Article III of Annex II to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China on 6 April 2004 [LC Paper No. CB(2)1973/03-04(01)]</p> |
| 4 May 2004 | Panel on Constitutional Affairs | <p>Paper provided by the Administration on Decision of the Standing Committee of the National People's Congress on the Chief Executive's Report on whether there is a need to amend the methods for selecting the Chief Executive of the Hong Kong Special Administrative Region in 2007 and for forming the Legislative Council of the Hong Kong Special Administrative Region in 2008 [LC Paper No. CB(2)2174/03-04(01)]</p> <p>Decision of the Standing Committee of the National People's Congress on issues relating to the methods for selecting the Chief Executive of the Hong Kong Special Administrative Region in 2007 and for forming the Legislative Council of the Hong Kong Special Administrative Region in 2008 [LC Paper No. CB(2)2212/03-04(01)]</p> |
| 17 May 2004 | Panel on Constitutional Affairs | <p>The Third Report of the Constitutional Development Task Force : Areas which may be Considered for Amendment in respect of the Methods for Selecting the Chief Executive in 2007 and for Forming the Legislative Council in 2008</p> |
| 18 October 2004 | Panel on Constitutional Affairs | <p>Background Brief on "Review on constitutional development after 2007" prepared by the LegCo Secretariat [LC Paper No. CB(2)49/04-05(02)]</p> |

| <u>Date</u> | <u>Context</u> | <u>Paper</u> |
|------------------|---------------------------------|--|
| 15 December 2004 | Council meeting | The Fourth Report of the Constitutional Development Task Force : Views and Proposals of Members of the Community on the Methods for Selecting the Chief Executive in 2007 and for Forming the Legislative Council in 2008 |
| 19 October 2005 | Council meeting | The Fifth Report of the Constitutional Development Task Force : Package of Proposals for the Methods for Selecting the Chief Executive in 2007 and for Forming the Legislative Council in 2008 |
| 21 October 2005 | Panel on Constitutional Affairs | <p>Background brief on "Constitutional development after 2007" prepared by LegCo Secretariat [LC Paper No. CB(2)115/05-06(03)]</p> <p>Administration's paper on "The Fifth Report of the Constitutional Development Task Force : Package of Proposals for the Methods for Selecting the Chief Executive in 2007 and for Forming the Legislative Council in 2008" [LC Paper No. CB(2)119/05-06(01)]</p> <p>Minutes of meeting [LC Paper No. CB(2)597/05-06]</p> |
| 19 December 2005 | Panel on Constitutional Affairs | <p>Commission on Strategic Development's (CSD) paper on "An Overview of the Political Structure of the Hong Kong Special Administrative Region" [LC Paper No. CB(2)519/05-06(01)]</p> <p>CSD's paper on "A Preliminary Study on the Methods to be Adopted for Selecting the Chief Executive and for Forming the Legislative Council when Universal Suffrage is Attained and Related Issues" [LC Paper No. CB(2)519/05-06(02)]</p> <p>Minutes of meeting [LC Paper No. CB(2)1140/05-06]</p> |
| 21 December 2005 | Council meeting | Report of the Subcommittee to Study the Administration's Proposals for the Methods for Selecting the Chief Executive in 2007 and for Forming the Legislative Council in 2008 [LC Paper No. CB(2)673/05-06] |

| <u>Date</u> | <u>Context</u> | <u>Paper</u> |
|---------------|---------------------------------|---|
| 20 March 2006 | Panel on Constitutional Affairs | <p>CSD's paper on "Strategic Issues to be Discussed", "Constitutional Basis of Basic Law Provisions Regarding 'Universal Suffrage'" and "General Understanding on the Concept of 'Universal Suffrage'" [LC Paper No. CB(2)913/05-06]</p> <p>CSD's paper on "Adoption of the Principles of Universal Suffrage and Balanced Participation – Practices in Some Democratic Countries" [LC Paper No. CB(2)1307/05-06]</p> <p>Information Note on "Summary of Electoral Systems in Selected Places" prepared by the Research and Library Services Division [IN19/05-06]</p> <p>Minutes of meeting [LC Paper No. CB(2)1968/05-06]</p> |
| 21 April 2006 | Panel on Constitutional Affairs | <p>Administration's paper on "Method for Selecting the Chief Executive by Universal Suffrage and Review of the Chief Executive Election Ordinance" [LC Paper No. CB(2)1745/05-06(02)]</p> <p>CSD's paper on "Summary of the views expressed at the first meeting on 29 November 2005", "Summary of the views expressed at the second meeting on 20 January 2006" and "Summary of the views expressed at the workshop organised by the Secretariat to CSD and the Constitutional Affairs Bureau on 28 February 2006" [LC Paper Nos. CB(2)1519/05-06(01), (02) and (03)]</p> <p>Minutes of meeting [LC Paper No. CB(2)2226/05-06]</p> |
| 15 May 2006 | Panel on Constitutional Affairs | <p>Administration's paper on "Discussion regarding the formation of the Legislative Council by universal suffrage" [LC Paper No. CB(2)1971/05-06(02)]</p> <p>Information Note on "Functional Representation in Ireland and Slovenia" prepared by the Research and Library Services Division [IN24/05-06]</p> |

| <u>Date</u> | <u>Context</u> | <u>Paper</u> |
|------------------|---------------------------------|--|
| | | <p>Information Note on "Compliance of the Electoral System of the Legislature with the International Covenant on Civil and Political Rights: New Zealand" prepared by the Research and Library Services Division [IN25/05-06]</p> <p>Fact Sheet on "Nationality Requirement of Legislators in Selected Countries" prepared by the Research and Library Services Division [FS14/05-06]</p> <p>Information Note on "Compliance of the Electoral System of the Legislature with the International Covenant on Civil and Political Rights: Germany" prepared by the Research and Library Services Division [IN34/05-06]</p> <p>Minutes of meeting [LC Paper No. CB(2)2873/05-06]</p> |
| 19 June 2006 | Panel on Constitutional Affairs | <p>Background brief on "Models for selecting the Chief Executive and forming the Legislative Council by universal suffrage" prepared by the LegCo Secretariat [LC Paper No. CB(2)2386/05-06(01)]</p> <p>CSD's paper on "Summary of the views expressed at the third meeting on 24 March 2006" [LC Paper No. CB(2)2112/05-06]</p> <p>CSD's paper on "Conclusions on Discussions on the Concepts and Principles Relating to Universal Suffrage" [LC Paper No. CB(2)2317/05-06]</p> <p>Minutes of meeting [LC Paper No. CB(2)2936/05-06]</p> |
| 20 November 2006 | Panel on Constitutional Affairs | <p>CSD's paper on "Possible Models for Forming the Legislative Council by Universal Suffrage" [LC Paper No. CB(2)3062/05-06]</p> |

| <u>Date</u> | <u>Context</u> | <u>Paper</u> |
|------------------|---------------------------------|---|
| | | <p>CSD's paper on "Possible Models for Forming the Legislative Council by Universal Suffrage" and proposals from the Business and Professionals Federation of Hong Kong and Mrs Regina IP [LC Paper No. CB(2)376/06-07(03)]</p> <p>Minutes of meeting [LC Paper No. CB(2)813/06-07]</p> |
| 18 December 2006 | Panel on Constitutional Affairs | <p>CSD's paper on "Possible Models for Selecting the Chief Executive by Universal Suffrage" [LC Paper No. CB(2)2835/05-06]</p> <p>CSD's paper on "Possible models for selecting the Chief Executive and forming the Legislative Council by universal suffrage" [LC Paper No. CB(2)436/06-07]</p> <p>CSD's paper on "Summary of the views expressed at the sixth meeting on 22 September 2006, workshop on 14 September 2006 and 3 October 2006" [LC Paper Nos. CB(2)445/06-07(01), (02) and (03)]</p> <p>Submissions from guest speakers attending the two workshops held by the CSD on 14 September 2006 and 3 October 2006 [LC Paper No. CB(2)630/06-07(02)]</p> <p>Response of the Secretary for Constitutional Affairs to the motion on "Electing the Chief Executive by universal suffrage" at the Council meeting on 22 November 2006 [LC Paper No. CB(2)630/06-07(03)] (Chinese version only)</p> <p>Minutes of meeting [LC Paper No. CB(2)1022/06-07]</p> |
| 26 March 2007 | Panel on Constitutional Affairs | <p>Administration's paper on "Promoting constitutional development : The Next Step" [LC Paper No. CB(2)1378/06-07(03)]</p> <p>CSD's paper on "Possible models for selecting the Chief Executive and forming the Legislative</p> |

| <u>Date</u> | <u>Context</u> | <u>Paper</u> |
|---------------------|---------------------------------|--|
| | | <p>Council by universal suffrage" [Appendix I to LC Paper No. CB(2)920/06-07]</p> <p>Minutes of meeting [LC Paper No. CB(2)1871/06-07]</p> |
| 16 April 2007 | Panel on Constitutional Affairs | <p>CSD's paper on "Models, Roadmap and Timetable for Electing the Chief Executive by Universal Suffrage" [LC Paper No. CB(2)1520/06-07]</p> <p>Administration's paper on "Possible models for selecting the Chief Executive and for forming the Legislative Council by universal suffrage" [LC Paper No. CB(2)1569/06-07(03)]</p> <p>Minutes of meeting [LC Paper No. CB(2)2468/06-07]</p> |
| 21 May 2007 | Panel on Constitutional Affairs | <p>Administration's paper on "Models, roadmap and timetable for electing the Chief Executive and for forming the Legislative Council by universal suffrage" and the submissions put forth to the workshop organised by the CSD on 10 May 2007 [LC Paper No. CB(2)1858/06-07(01)]</p> <p>Minutes of meeting [LC Paper No. CB(2)678/07-08]</p> |
| 21 June 2007 | Panel on Constitutional Affairs | <p>CSD's paper on "Summary of discussions on the models, roadmap and timetable for electing the Chief Executive" [LC Paper No. CB(2)2205/06-07]</p> <p>Minutes of meeting [LC Paper No. CB(2)161/07-08]</p> |
| 11 July 2007 | Council meeting | <p>Green Paper on Constitutional Development</p> <p>Statement by the Chief Secretary for Administration on the Green Paper on Constitutional Development</p> |
| 16 and 25 July 2007 | Panel on Constitutional | Transcripts of remarks made by the Chief Executive, the Chief Secretary for Administration |

| <u>Date</u> | <u>Context</u> | <u>Paper</u> |
|---------------------------------|---------------------------------|--|
| | Affairs | <p>and the Secretary for Constitutional and Mainland Affairs to the press on the Green Paper on Constitutional Development on 11 July 2007 [LC Paper No. CB(2)2471/06-07(01)]</p> <p>Minutes of meeting [LC Paper No. CB(2)195/07-08] [LC Paper No. CB(2)671/07-08]</p> |
| 7, 10, 12 and 14 September 2007 | Panel on Constitutional Affairs | <p>Administration's paper on "Green Paper on Constitutional Development" [LC Paper No. CB(2)2664/06-07(01)]</p> <p>Minutes of meetings [LC Paper No. CB(2)284/07-08] [LC Paper No. CB(2)680/07-08] [LC Paper No. CB(2)943/07-08] [LC Paper No. CB(2)1027/07-08]</p> |
| 5 October 2007 | Panel on Constitutional Affairs | <p>Administration's paper on "Green Paper on Constitutional Development" [LC Paper No. CB(2)2766/06-07(01)]</p> <p>Information provided by the Administration on the opinion polls on universal suffrage conducted by universities and think-tanks [LC Paper Nos. CB(2)2715/06-07(01)-(12)] (Chinese version only)</p> <p>Minutes of meeting [LC Paper No. CB(2)1818/07-08]</p> |
| 12 December 2007 | Council meeting | <p>Report by the Chief Executive of the Hong Kong Special Administrative Region to the Standing Committee of the National People's Congress on the Public Consultation on Constitutional Development and on whether there is a need to amend 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 2012</p> <p>Report on Public Consultation on Green Paper on Constitutional Development</p> |

| <u>Date</u> | <u>Context</u> | <u>Paper</u> |
|-------------------------|---------------------------------|---|
| | | Statement by the Chief Secretary for Administration on two Reports on constitutional development of Hong Kong |
| 17 and 19 December 2007 | Panel on Constitutional Affairs | <p>Press releases relating to the two Reports on constitutional development of Hong Kong issued on 12 December 2007 [LC Paper No. CB(2)592/07-08(04)]</p> <p>Minutes of meetings [LC Paper No. CB(2)1334/07-08] [LC Paper No. CB(2)2739/07-08]</p> |
| 21 January 2008 | Panel on Constitutional Affairs | <p>Decision of the Standing Committee of the National People's Congress 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</p> <p>Press releases on the decision by the Standing Committee of the National People's Congress issued on 29 December 2007 [LC Paper No. CB(2)846/07-08(04)]</p> <p>Minutes of meeting [LC Paper No. CB(2)1615/07-08]</p> |
| 17 March 2008 | Panel on Constitutional Affairs | <p>CSD's paper on "Issues to be Discussed at Future Meetings" and "Method for Electing the Chief Executive in 2012 - Size and Composition of the Election Committee and Nominating Arrangements" [LC Paper No. CB(2)1177/07-08]</p> <p>Minutes of meeting [LC Paper No. CB(2)2248/07-08]</p> |
| 23 April 2008 | Council meeting | <p>Report of the Bills Committee on Legislative Council (Amendment) Bill 2007 [LC Paper No. CB(2)1665/07-08]</p> |

| <u>Date</u> | <u>Context</u> | <u>Paper</u> |
|--------------------|---------------------------------|--|
| 19 May 2008 | Panel on Constitutional Affairs | CSD's paper on "Method for Forming the Legislative Council in 2012" [LC Paper No. CB(2)1436/07-08] CSD's paper on "Further Discussion on the Method for Forming the Legislative Council in 2012" [LC Paper No. CB(2)1694/07-08] Minutes of meeting [LC Paper No. CB(2)2841/07-08] |
| 16 June 2008 | Panel on Constitutional Affairs | Administration's paper on "Methods for electing the Chief Executive and for forming the Legislative Council in 2012" [LC Paper No. CB(2)2223/07-08(01)] Minutes of meeting [LC Paper No. CB(2)2806/07-08] |

Council Business Division 2
Legislative Council Secretariat
10 February 2009