

政制及內地事務局
政府總部

香港下亞厘畢道



CONSTITUTIONAL AND MAINLAND AFFAIRS BUREAU
GOVERNMENT SECRETARIAT
LOWER ALBERT ROAD
HONG KONG

16 August 2010

Hon. TAM Yiu-chung, GBS, JP
Chairman
Panel on Constitutional Affairs
Legislative Council

Dear Chairman,

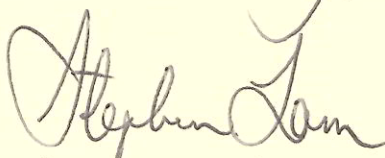
The Chairmen's Council of the Standing Committee of the National People's Congress (NPCSC) has today proposed to put the (Draft) Amendment to Annex I to the Basic Law of the Hong Kong Special Administrative Region Concerning the Method for the Selection of the Chief Executive of the Hong Kong Special Administrative Region submitted by the Chief Executive (CE) for approval and the (Draft) Amendment to Annex II to the Basic Law of the Hong Kong Special Administrative Region Concerning the Method for the Formation of the Legislative Council of the Hong Kong Special Administrative Region submitted by the CE for the record on the agenda for discussion at the NPCSC's meeting between August 23 and 28.

If the NPCSC approves and records the draft amendments to the methods for selecting the CE and for forming the Legislative Council (LegCo) respectively after consideration, the five-step legislative process for amending the methods for selecting the CE and for forming the LegCo will have been completed.

I enclose for your reference the reports submitted to the NPCSC by the CE which contain the two draft amendments and the explanations on the two draft amendments:

- (i) Report concerning the submission of the "(Draft) Amendment to Annex I to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China Concerning the Method for the Selection of the Chief Executive of the Hong Kong Special Administrative Region" to the Standing Committee of the National People's Congress for approval;

- (ii) Report concerning the reporting of the “(Draft) Amendment to Annex II to the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China Concerning the Method for the Formation of the Legislative Council of the Hong Kong Special Administrative Region and its Voting Procedures” to the Standing Committee of the National People’s Congress for the record; and
- (iii) The Explanations on the “(Draft) Amendment to Annex I to the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China Concerning the Method for the Selection of the Chief Executive of the Hong Kong Special Administrative Region” and the “(Draft) Amendment to Annex II to the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China Concerning the Method for the Formation of the Legislative Council of the Hong Kong Special Administrative Region and its Voting Procedures”.

Yours sincerely,

(Stephen Lam)

Secretary for Constitutional and Mainland Affairs

Report concerning the submission of the “(Draft) Amendment to Annex I to the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China Concerning the Method for the Selection of the Chief Executive of the Hong Kong Special Administrative Region” to the Standing Committee of the National People’s Congress for approval

(Translation)

The Standing Committee of the National People’s Congress:

In accordance with Article 7 of Annex I to the Basic Law of the Hong Kong Special Administrative Region (“the Basic Law”) and the “Decision on issues relating to the methods for selecting the Chief Executive of the Hong Kong Special Administrative Region and for forming the Legislative Council of the Hong Kong Special Administrative Region in the year 2012 and on issues relating to universal suffrage” of the Standing Committee of the National People’s Congress (“the Standing Committee”) of 29 December 2007, the Government of the Hong Kong Special Administrative Region (“HKSAR”) submitted to the Legislative Council of the HKSAR on 7 June 2010 the “(Draft) Amendment to Annex I to the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China Concerning the Method for the Selection of the Chief Executive of the Hong Kong Special Administrative Region” by way of a motion. The (Draft) Amendment received 46 “yes” votes and was endorsed by a two-thirds majority of all the members of the Legislative Council on 24 June 2010.

As the Chief Executive, I consider that the above (Draft) Amendment is consistent with the Basic Law and the relevant decision of the Standing Committee. Pursuant to Article 7 of Annex I to the Basic Law, I signed a consent for the above (Draft) Amendment on 29 June 2010.

In accordance with Article 7 of Annex I to the Basic Law and the relevant decision of the Standing Committee, I hereby submit to the Standing Committee the “(Draft) Amendment to Annex I to the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China Concerning the Method for the Selection of the Chief Executive of the Hong Kong Special Administrative Region” for approval.

Chief Executive
Hong Kong Special Administrative Region
28 July 2010

**(Draft) Amendment to Annex I to the Basic Law
of the Hong Kong Special Administrative Region
of the People's Republic of China Concerning the
Method for the Selection of the Chief Executive of the
Hong Kong Special Administrative Region**

1. The Election Committee to elect the fourth term Chief Executive in 2012 shall be composed of 1200 members from the following sectors:

Industrial, commercial and financial sectors	300
The professions	300
Labour, social services, religious and other sectors	300
Members of the Legislative Council, representatives of members of the District Councils, representatives of the Heung Yee Kuk, 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	300

The term of office of the Election Committee shall be five years.

2. Candidates for the office of Chief Executive may be nominated jointly by not less than 150 members of the Election Committee. Each member may nominate only one candidate.

Report concerning the reporting of the “(Draft) Amendment to Annex II to the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China Concerning the Method for the Formation of the Legislative Council of the Hong Kong Special Administrative Region and its Voting Procedures” to the Standing Committee of the National People’s Congress for the record

(Translation)

The Standing Committee of the National People’s Congress:

In accordance with Article III of Annex II to the Basic Law of the Hong Kong Special Administrative Region (“the Basic Law”) and the “Decision on issues relating to the methods for selecting the Chief Executive of the Hong Kong Special Administrative Region and for forming the Legislative Council of the Hong Kong Special Administrative Region in the year 2012 and on issues relating to universal suffrage” of the Standing Committee of the National People’s Congress (“the Standing Committee”) of 29 December 2007, the Government of the Hong Kong Special Administrative Region (“HKSAR”) submitted to the Legislative Council of the HKSAR on 7 June 2010 the “(Draft) Amendment to Annex II to the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China Concerning the Method for the Formation of the Legislative Council of the Hong Kong Special Administrative Region and its Voting Procedures” by way of a motion. The (Draft) Amendment received 46 “yes” votes and was endorsed by a two-thirds majority of all the members of the Legislative Council on 25 June 2010.

As the Chief Executive, I consider that the above (Draft) Amendment is consistent with the Basic Law and the relevant decision of the Standing Committee. Pursuant to Article III of Annex II to the Basic Law, I signed a consent for the above (Draft) Amendment on 29 June 2010.

In accordance with Article III of Annex II to the Basic Law and the relevant decision of the Standing Committee, I hereby report to the Standing Committee the “(Draft) Amendment to Annex II to the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China Concerning the Method for the Formation of the Legislative Council of the Hong Kong Special Administrative Region and its Voting Procedures” for the record.

Chief Executive
Hong Kong Special Administrative Region
28 July 2010

**(Draft) Amendment to Annex II to the Basic Law
of the Hong Kong Special Administrative Region
of the People's Republic of China Concerning the
Method for the Formation of the Legislative Council of the
Hong Kong Special Administrative Region and its Voting Procedures**

The fifth term Legislative Council in the year 2012 shall be composed of 70 members, and the composition shall be as follows:

Members returned by functional constituencies	35
Members returned by geographical constituencies through direct elections	35

The Explanations on the “(Draft) Amendment to Annex I to the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China Concerning the Method for the Selection of the Chief Executive of the Hong Kong Special Administrative Region” and the “(Draft) Amendment to Annex II to the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China Concerning the Method for the Formation of the Legislative Council of the Hong Kong Special Administrative Region and its Voting Procedures”

(Translation)

The Standing Committee of the National People’s Congress:

I hereby provide explanations for the “(Draft) Amendment to Annex I to the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China Concerning the Method for the Selection of the Chief Executive of the Hong Kong Special Administrative Region” and the “(Draft) Amendment to Annex II to the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China Concerning the Method for the Formation of the Legislative Council of the Hong Kong Special Administrative Region and its Voting Procedures”.

In accordance with Article 7 of Annex I to the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China (“the Basic Law”), if there is a need to amend the method for selecting the Chief Executive of the Hong Kong Special Administrative Region (“HKSAR”), 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 (“the Standing Committee”) for approval. In accordance with Article III of Annex II to the Basic Law, if there is a need to amend the method for forming the Legislative Council of the HKSAR, 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 for the record.

In accordance with “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 Interpretation”) adopted by the Standing Committee of the Tenth National People’s Congress at its Eighth Session on 6 April 2004, the Chief Executive shall make a report to the Standing Committee as regards whether there is a need to amend the methods for

selecting the Chief Executive and for forming the Legislative Council, and the Standing Committee shall, in accordance with the provisions of Articles 45 and 68 of the Basic Law, make a determination in the light of the actual situation in the HKSAR and in accordance with the principle of gradual and orderly progress.

On 11 July 2007, the HKSAR Government issued the Green Paper on Constitutional Development to consult the public extensively on the options, roadmap and timetable for implementing universal suffrage for the Chief Executive and the Legislative Council. On 12 December 2007, the Chief Executive, in accordance with the relevant provisions of the Interpretation, 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” (“the Report”) to the Standing Committee.

The Standing Committee of the Tenth National People’s Congress considered at its Thirty-first Session the above Report, and adopted the “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” (“the Decision”) on 29 December 2007.

The Decision provides that “[T]he 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.”

Following the adoption of the Decision by the Standing Committee, the HKSAR Government established a task group on constitutional development under the Commission on Strategic Development to promote discussion within the community on the two electoral methods for 2012. In order to collect views widely from different sectors of the community on the two electoral methods for 2012, the HKSAR Government published on 18 November 2009 the “Consultation Document on the Methods for Selecting the Chief Executive and for Forming the Legislative Council in 2012”, setting out the directions which might be considered regarding the key elements of the two electoral methods for 2012, and launched a three-month public consultation.

During the consultation period, the HKSAR Government listened extensively through a variety of channels to the views of the public, organizations and individuals from different sectors, the Legislative Council and District Councils on how the two electoral methods for 2012 should be amended. We received about 47200 written submissions, and more than 1.6 million signatures. We also monitored closely the relevant opinion polls conducted by various academic, community and media organizations as an important means to reflect public opinion. Generally speaking, the mainstream views within the community were clear: (1) there was a common wish to see progress being made in the constitutional arrangement in 2012; (2) 60% of the public supported the key elements about the two electoral methods for 2012 as set out in the consultation document; and (3) over half of the public supported passage of the Government’s proposed package for the 2012 elections by the Legislative Council.

After considering fully the views received, the HKSAR Government put forth on 14 April 2010 a package of proposals for the methods for selecting the Chief Executive and for forming the Legislative Council in 2012. The proposed package enhanced the democratic elements of the two elections for 2012, in accordance with the Basic Law and the Decision, as well as in compliance with the principle of gradual and orderly progress. Regarding the amendments to Annex I to the Basic Law concerning the method for selecting the Chief Executive, we proposed that: (1) the number of members of the Election Committee in 2012 be increased from 800 to 1200, and the number of members of the four sectors be increased by the same proportion, i.e. the number of seats for each sector be increased by 100, so as to maintain the principle of balanced participation; (2) the current nomination threshold be maintained at the ratio of one-eighth of the total membership of the Election Committee, i.e. the number of subscribers required shall be not less than 150. We have also made it clear to the public that of the four existing sectors, most of the new seats of the political sector would be allocated to elected District

Council members, so as to enhance the democratic elements of the electoral method, and that the specific arrangements would be dealt with in the context of local legislation.

Regarding the amendments to Annex II to the Basic Law concerning the method for forming the Legislative Council, we proposed that the number of seats in the Legislative Council in 2012 should be increased from 60 to 70, 35 seats to be returned by geographical constituencies through direct elections and 35 seats to be returned by functional constituencies. The ten new seats would be divided equally between directly-elected seats and functional seats. We have also made it clear that the five new functional seats would be allocated to the District Council Functional Constituency, so as to enhance the democratic elements of the Legislative Council, and that the specific arrangements would be dealt with in the context of local legislation.

The HKSAR Government submitted to the Legislative Council on 7 June 2010 its proposed package under two (Draft) Amendments, i.e. “(Draft) Amendment to Annex I to the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China Concerning the Method for the Selection of the Chief Executive of the Hong Kong Special Administrative Region” and “(Draft) Amendment to Annex II to the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China Concerning the Method for the Formation of the Legislative Council of the Hong Kong Special Administrative Region and its Voting Procedures”, by way of motions.

To strive to gain the support of the community for the proposed package, senior officials of the HKSAR Government engaged pro-actively members of the public within the community. Moreover, in order to secure the passage of the two motions by the Legislative Council so as to roll forward democracy in Hong Kong, the HKSAR Government had continued to communicate pro-actively with different political parties and groups of the Legislative Council and put forth amendment proposals regarding the detailed electoral arrangements for the five new District Council functional constituencies seats before the motions were put to vote at the Legislative Council. Eventually, the HKSAR Government managed to forge consensus, in the overall interest of Hong Kong, among different political parties and groups, as well as independent Members of the Legislative Council on the two electoral methods for 2012.

The Legislative Council commenced the debate on the above two motions on 23 June 2010, and voted on the motions concerning the amendments to the electoral methods for selecting the Chief Executive and for

forming the Legislative Council on 24 and 25 June respectively. The two motions both received 46 “yes” votes, and 13 and 12 “no” votes respectively, i.e. they were endorsed by a two-thirds majority of all the members of the Legislative Council.

As the Chief Executive, I consider that the above two (Draft) Amendments are consistent with the Basic Law and the relevant decision of the Standing Committee. Pursuant to Article 7 of Annex I to the Basic Law and Article III of Annex II to the Basic Law, I signed consents for the above two (Draft) Amendments on 29 June 2010.

This is the first time since the establishment of the HKSAR that, in accordance with the provisions in the Annexes to the Basic Law, the amendments to the electoral methods for the Chief Executive and the Legislative Council are passed within the HKSAR. This enables us to roll forward democracy in Hong Kong, and is also conducive to attaining the ultimate aim of universal suffrage as provided for in the Basic Law. The passage of the amendments to the two electoral methods for 2012 has complied with the requirement of rolling forward constitutional development through making gradual and orderly progress, responded to the mainstream views within the community, and created favourable conditions for implementing universal suffrage for the Chief Executive in 2017 and thereafter, for the Legislative Council in accordance with the Decision.

In accordance with Article 7 of Annex I to the Basic Law and the relevant decision of the Standing Committee, I hereby submit to the Standing Committee the “(Draft) Amendment to Annex I to the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China Concerning the Method for the Selection of the Chief Executive of the Hong Kong Special Administrative Region” for approval.

In accordance with Article III of Annex II to the Basic Law and the relevant decision of the Standing Committee, I hereby report to the Standing Committee the “(Draft) Amendment to Annex II to the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China Concerning the Method for the Formation of the Legislative Council of the Hong Kong Special Administrative Region and its Voting Procedures” for the record.

Chief Executive
Hong Kong Special Administrative Region
28 July 2010