

**Mr Edmon CHUNG**

## **Response to the Proposed Chief Executive Election (Amendment) Bill 2010 and Legislative Council (Amendment) Bill 2010**

January 12, 2011

I would like to express my support towards the arrangements proposed in the Legislative Council (Amendment) Bill. The proposal adhered to the goal and promise of broadening the electorate base for the Functional Constituency. In fact, I am pleased to see that the arrangement follows exactly my proposal submitted to the council for consideration in May 2010: [http://www.legco.gov.hk/yr09-10/chinese/hc/sub\\_com/hs52/papers/hs520522cb2-1588-14-ec.pdf](http://www.legco.gov.hk/yr09-10/chinese/hc/sub_com/hs52/papers/hs520522cb2-1588-14-ec.pdf).

At the same time, I would like to express my disappointment with the proposal for the Chief Executive Election (Amendment) Bill. The proposal did not achieve the purported goal of broadening the electorate base or to increase the democratic elements of the process.

To reiterate and remind this council, of all the public comments as summarized and presented in the past, the aspect of broadening the electorate base, in BOTH the contexts of the Election Committee (EC) and the Functional Constituency (FC) members of the LegCo, represents the strongest consensus. While the LegCo FC additions demonstrate improvement towards this goal, the EC elections failed to achieve any improvement. More importantly, the increase in the number of the EC membership does NOT broaden the electorate base per se and does NOT provide the direction or pave the way for a gradual and orderly progression towards universal suffrage. By definition of election and constituency theories, the broadening of electorate base must include the composition of voters from a broader sector of the public. Electing more representatives from the same set of voters (i.e. same subsector / constituency) does NOT broaden the electorate base of the resultant EC.

The current proposal, while enlarging the EC elects additional members only from the same existing constituencies. Therefore it fails to broaden the electorate base and fail to pave a way towards a gradual and orderly progression towards universal suffrage.

This comment in consolidating the proposals and comments received and presented in the Package of Proposals, along with the Basic Law and the relevant provisions of the NPCSC decision of 29 December 2007, makes the suggestion for the method of the formation of the EC as follows:

1. Current provisions for the 800 members remain
2. 300 additional seats:
  - a. For the 3 sectors respectively:
    - i. Industry Sector (First Sector)
    - ii. Professions Sector (Second Sector)
    - iii. Social Sector (Third Sector)
  - b. For each of the sectors, the additional 100 seats should be elected by an integrated constituency of all the voters from all the subsectors within the particular sector
3. Provisions for the 100 additional seats for the Political Sector (Fourth Sector):
  - a. 90 seats (including 75 from DC, 10 from CPPCC and 5 from Heung Yee Kuk) to be allocated as recommended by the proposed CE Election (Amendment) Bill
  - b. "Transitional arrangement" for the additional 10 seats for the LegCo, to be nominated by then existing LegCo members (eligible candidate being any eligible voter for any of

the geographic constituencies not already having a vote in any of the first 3 sectors as described in 2 above) and elected by the drawing of lots or through a list proportional representation system with eligible voters being all registered (geographical constituency) voters not already having a vote in 2 above.

For **provision 2** above, the difference between the existing proposal and this proposal is that the existing proposal suggests that the 100 additional seats be proportionally allocated to each of the subsectors and elected by the same constituencies with the same set of voters, while this proposal suggests that the 100 additional seats be elected by all the voters in the sector as a whole. Regarding the nomination and election procedure, this proposal echoes the proposed one-person-two-vote concept developed for the Legco FC elections, in suggesting that the nomination process and requirements be the same for a subsector candidate (i.e. in order to be nominated as a candidate in a sector, the candidate must fulfill the candidacy requirements for any one of the subsectors within the sector).

For the election procedure, the additional 100 seats for each sector can be elected by all the eligible voters within that sector through a list proportional representation system. As such, each eligible voter may cast 2 ballots:

1. Bloc vote for existing Subsector seats (300 existing seats as allocated for each subsector)
2. One vote for list proportional representation system for 100 additional seats

This proposal is compliant with the Basic Law and the relevant provisions of the NPCSC decision of 29 December 2007 and would support the broadening of the electorate base and pave the way for a gradual and orderly progression towards universal suffrage.

For **provision 3** above, the critical difference between the existing proposal and this proposal is the handling of the “Transitional arrangement” for the additional 10 seats for the LegCo. The current proposal suggests that the 10 seats be allocated as follows:

- 4 additional persons from the Chinese People’s Political Consultative Conference subsector,
- 2 additional persons from the Heung Yee Kuk subsector
- 4 additional persons from the Hong Kong and Kowloon District Councils subsector and the New Territories District Councils

This arrangement is not appropriate because:

1. The arrangement fails to reflect or echo the arrangements for the intended 10 additional seats to the LegCo as proposed by the LegCo (Amendment) Bill;
2. The arrangement fails to broaden the electorate base of the elected EC members; and,
3. The arrangement fails to advance the Chief Executive Elections towards the gradual and orderly progression towards universal suffrage

This proposal posits forward two workable solutions for these 10 “Special Member” seats:

**Suggestion 1: List Proportional Representation System with Nomination by LegCo Members**

This suggestion echoes the arrangement for the additional 5 FC seats in the LegCo (Amendment) Bill and expands the electorate base for the EC to all registered eligible voters (of the GC). The suggestion also is consistent with the intent for the 10 “Special Members” to come from the additional LegCo Members by requiring that any candidate standing for election must obtain nomination from then existing LegCo Members. More specifically, the suggestion is that a candidate must be an eligible voter, and has obtained the nomination from 10 then serving LegCo Members (LegCo Members may provide a

maximum of 10 nominations). Thereupon, a list proportional representation method may be used for the election to return these 10 Special Member seats by eligible voters not already having a vote in any of the First, Second and Third Sectors.

This method also advances and provides a “preview” for the letter DC (2) FC elections in the proposed LegCo (Amendment) Bill, which in turn further promotes a gradual and orderly progression towards universal suffrage.

### **Suggestion 2: Drawing of Lots**

Since the 10 Special Members are expected to serve for only a few months (upon the election of the EC in 2011 for the 2012 Chief Executive Elections to the completion of the LegCo Elections later in 2012), it may be desirable for the process for returning of these 10 Special Member seats to be simpler. In that case, this suggestion is to utilize the method of drawing of lots to elect the 10 Special Members. The method of drawing lots is not alien to the election processes. Often where a tie happens, the drawing of lots is used to elect a seat as a tie-breaker.

There are 2 ways to utilize the drawing of lots:

1. *Nomination required to stand as candidate:* A similar process as Suggestion 1 can be used, whereby a candidate (who must be a registered voter) must obtain the nomination from 10 then serving LegCo members to stand as a candidate for the 10 Special Member seats. Thereupon, a drawing of lots would determine the 10 elected Special Members from standing candidates.
2. *No nominations required:* in this approach, the process could simply be to conduct a draw from all registered eligible voters (that do not already have a vote in the First, Second or Third sectors, and do not already have a seat in the Fourth Sector).

Either approach for Suggestion 2 satisfies the broadening of the electorate base better than the current proposed LegCo (Amendment) Bill, and allows a broader set of voters to participate in the EC and CE Elections, thereby paving the way forward for a gradual and orderly progression towards universal suffrage.

### **Brief Summary:**

As a brief conclusion:

- A. The LegCo (Amendment) Bill is appropriate and achieves the goal of broadening the electorate base of elected members in the FC, and paves a way forward a gradual and orderly progression towards universal suffrage.
- B. The CE Elections (Amendment) Bill fails to broaden the electorate base of the EC and further refinement is necessary to achieve that purported goal. For example this comment suggests:
  - a. Each of the 100 additional seats for the First, Second and Third Sectors respectively be elected from the whole of the Sector rather than proportionally allocated to each subsector; and
  - b. A method that would engage all eligible voters not already having a vote in the First, Second and Third Sectors be utilized for the Transitional Arrangement for the 10 Special Seats (e.g. candidate nominated by then serving LegCo members and elected by a list proportional representation system or the drawing of lots).