

# 立法會

## *Legislative Council*

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### **Panel on Home Affairs**

#### **Background brief prepared by the Legislative Council Secretariat for the meeting on 18 January 2013**

#### **Matters relating to the nomination of representatives of arts interests for the Hong Kong Arts Development Council**

### **Purpose**

This paper provides background information on the nomination of representatives of arts interests for the Hong Kong Arts Development Council ("HKADC"), and highlights the concerns of Legislative Council ("LegCo") Members on the subject.

### **Background**

2. HKADC was established by the Government in 1994 and became a statutory body in 1995 upon the enactment of the Hong Kong Arts Development Council Ordinance (Cap. 472) ("the HKADC Ordinance"). HKADC has the statutory functions to, among others, plan, promote and support the broad development of the arts in Hong Kong, and to advise the Government on the policies, standard of provision of facilities, educational programmes, level of funding and any other matters that may effect the planning, development, promotion and support of the arts. HKADC is mainly funded by the Government's recurrent subventions.

### Governance structure

3. The governing body of HKADC is its Council, which comprises -
- (a) a Chairman, a Vice-Chairman and not more than 22 other members, and they are all appointed by the Chief Executive for a term of not exceeding three years. Of the 22 other members, up to 10 are nominated by 10 specified arts interests,

namely literary arts, music, dance, drama, visual arts, film arts, arts administration, arts education, arts criticism and Chinese opera (Xiqu); and

- (b) three official members, i.e. the Secretary for Home Affairs ("SHA"), the Permanent Secretary for Education and the Director of Leisure and Cultural Services, or their representatives.

#### Nomination of representatives from art interests

4. The HKADC Ordinance provides for the nomination of up to 10 representatives from the 10 specified arts interests. During the last year of each term of HKADC's membership, the Home Affairs Bureau ("HAB") is responsible for launching a nomination exercise to return such representatives for the next term. HAB appoints a nomination agent to assist it in conducting the nomination exercise.

#### Past reviews of the nomination procedures

5. The nomination procedures for returning arts interests representatives to HKADC were reviewed in 1999 and 2009.

##### *Review in 1999*

6. In March 1999, the Government issued the Consultant's Report on Culture, Arts, Recreation and Sports Services, which suggested, among others, that the electorate base of HKADC was fluid and too narrow, and one option to enhance the representativeness of the nominee was to allow an eligible voter to elect not only the representative of his own arts interest group, but also those of the other specified interest groups. In response, HAB agreed to broaden the electorate base of HKADC, allow an eligible voter to elect the representatives of all the arts interests instead of just the art interest to which the voter belonged, and limit eligible voters to those with at least one year membership prior to the commencement date of the nomination exercise.

##### *Report of the Audit Commission in 2009*

7. In 2009, the Audit Commission conducted a review on HKADC and recommended in the Director of Audit's Report No. 52 ("the 2009 Audit Report") that in conducting future exercises for nominating HKADC members by arts interests, SHA should introduce measures to facilitate the registration of members of the nominating bodies. Such measures might include lengthening the registration period and widening the publicity

channels so as to reach out to as many arts organizations/practitioners as possible. SHA should also step up voter registration efforts and introduce measures to enhance the arts community's understanding of the nomination process. The audit recommendations were accepted by SHA.

### Nomination exercise in 2010

#### *Procedures and requirements*

8. Since its establishment, HKADC has undergone seven nomination exercises. The latest one was conducted from March to September in 2010. The 2010 nomination process, which was proceeded in four phases, namely registration of members of the nominating bodies, voter registration, nomination of candidates, and electioneering and polling, is in **Appendix I**. The eligibility requirements for being a voter, a candidate and a proposer in the nomination exercise are in **Appendix II**.

#### *Results*

9. According to HKADC, there were a total of 29 eligible candidates in the 2010 nomination exercise. Among the 10 arts interests, one candidate in the arts interest of Drama was running uncontested while no nomination was received for the arts interest of Arts Criticism. Therefore, no polling was conducted for these two arts interests. Of the 7,071 registered voters, 1,909 turned out to vote for their representatives in the eight contested arts interests. The voter turnout rate was 27%. Details of the polling results are in **Appendix III**. A summary of the voter turnout rates of the last four nomination exercises is in **Appendix IV**.

10. According to the Administration, the 2010 nomination exercise had concluded satisfactorily. Since the launch of the exercise in March 2010, publicity of the exercise had been stepped up and funding for the purpose had been increased. The total expenditure for the exercise was about \$1.9 million, which was more than three folds as compared with \$560,000 in 2001.

### **Members' concerns**

11. Members' major areas of concerns are summarized in the following paragraphs.

### Nomination procedures

12. In the course of considering the 2009 Audit Report, members of the

Public Accounts Committee ("PAC") had expressed concerns about the nomination procedures for returning arts interests representatives to HKADC. They noted with concern that while HKADC had already undergone six nomination exercises up to 2007 and HAB had appointed the same nomination agent to assist in conducting the nomination exercises between 2001 and 2007, there was still feedback from some arts organizations/practitioners that in the 2007 nomination exercise, the nomination process was not well understood by arts interests, with some arts organizations/practitioners not yet registered as members of the nominating bodies. In this connection, members of PAC urged the Administration to lengthen the registration period to facilitate the registration of members of the nominating bodies and expeditiously implement the relevant recommendations in the 2009 Audit Report.

13. In response, the Administration advised that HAB would lengthen the registration period for members of the nominating bodies, step up voter registration efforts and widen publicity channels to promote the arts community's understanding of the nomination process.

#### Cross-arts interests voting system

14. At the Panel meeting on 18 March 2011, the Administration briefed members on the nomination of arts interests representatives for HKADC in the 2010 nomination exercise. Noting that the said nomination exercise had been criticized by media reports as casual, many members expressed grave concerns over the nomination procedures and arrangements. They were concerned that under the cross-arts interests voting system, a voter might cast a maximum of 10 votes (with one vote in each contested arts interest) for candidates standing for nomination. Members considered that this might give rise to a situation whereby an arts organization which had been registered as a member of the nominating bodies of an arts interest might register their members as voters and mobilize them to cast their votes collectively for its preferred candidate in each of the 10 arts interests. Consequently, a single arts organization in an arts interest might dominate the results of the nomination exercises of all other arts interests. Members also noted with concern that the numbers of blank votes in the nomination exercise of some arts interests were higher than those received by the elected candidates. This situation might indicate that under the cross-arts interests voting system, many voters in an arts interest did not know about the candidates in other arts interests, but to fulfill their duty to vote, they thus chose to cast a blank vote. In the light of these concerns, members called on the Administration to review the nomination procedures to ensure their fairness and transparency.

15. The Administration responded that HAB had endeavored to enhance

publicity on the nomination exercise through various measures, such as establishing a dedicated website to provide up-to-date information on the nomination exercise, placing advertisements on newspapers and distributing publicity leaflets and placing posters/banners at numerous venues, so as to ensure that the nomination exercise be conducted in an open and transparent manner. The cross-arts interests voting system was introduced in 1999 in the light of the recommendation in the Consultant's Report on Culture, Arts, Recreation and Sports Services issued in March 1999 and after detailed discussions in HKADC. The system aimed at encouraging members of the arts interests to take a holistic view of the arts development in Hong Kong rather than the concerns of individual arts interests only.

16. Regarding the reasons for the large number of blank votes cast, the Administration responded that it would examine the reasons for the occurrence of a large number of blank votes in the 2010 nomination exercise and the improvement measures to be taken. The Administration pointed out that as evidenced by the 2010 nomination exercise in which one voter cast votes for five arts interests on average, the cross-arts interests voting system could encourage members of an arts interest to care about other arts interests and the broad development of the arts in Hong Kong. In view of the views and concern expressed by members, HKADC would revisit the subject and the Administration would work with HKADC in this regard. A working group in HKADC would be set up to review the nomination exercise.

#### Voter registration

17. Concern was raised about the verification of the eligibility of the arts organizations for registration as organizational members of the nominating bodies of a specified arts interest and the members of the organizations concerned as voters. As explained by the Administration, an eligible arts organization should be a bona fide arts organization that aimed at promoting arts development and a statutory arts organization, or had registered under the relevant legislation. The organization concerned should also be formed and operated under a constitution or memorandum and articles of association, and had been set up for at least one year before the commencement date of the nomination exercise. However, a multi-disciplinary organization might apply in more than one arts-interest depending on its objectives and constitution. Members or employees of an arts organization which had been registered as an organizational member of the nominating bodies of an arts interest could apply for registration as voters through the organization. However, they had to join the organization, or had been directly involved in arts creation, direction or performance in the organization, for not less than one year prior to the start

date of the nomination exercise.

18. According to the Administration, in addition to requiring arts organizations to certify their members' voter registration forms, the nomination agent also required voters who registered through arts organizations to produce documentary proof of their membership of those organizations.

### Composition of HKADC

19. Some Panel members were of the view that HKADC's composition was undemocratic as only up to 10 of its 27 members might be nominated by the 10 specified arts interests. They asked whether the Administration had any worry about arts professionals being led by laymen in HKADC, and whether the 10 specified art interests had sufficiently covered various fields in the arts sector and whether there was room for adding more arts interests.

20. According to the Administration, apart from the three official members representing the Government, some of the 14 members not nominated by arts interests also had arts or other backgrounds. Having regard to HKADC's wide scope of work, including resource allocation and vetting applications for funds, members with other expertise could contribute to HKADC's discharge of its functions.

### **Latest development**

21. The Administration intends to brief the Panel on the findings of the review on the nomination exercise at the Panel meeting on 18 January 2013.

### **Relevant papers**

22. A list of relevant papers with their hyperlinks at LegCo's website is in **Appendix V**.

**Nomination of arts interests representatives for HKADC  
Operation procedures for the 2010 exercise**

Phase	Period	Main procedures
Phase I: Registration of members of the nominating bodies	30 March to 10 May	<ul style="list-style-type: none"> <li>❖ Arts organizations and practitioners which/who have been previously registered need not register again unless they wish to update their particulars or change the arts interests for which they have been registered.</li> <li>❖ Arts organizations or individual arts workers participating in the nomination exercise for the first time must apply for registration as members of the nominating bodies of their respective arts interests in order that they can participate in the subsequent phases of the nomination exercise including voter registration, nomination of candidates, electioneering and voting.</li> <li>❖ Following the close of this phase, HAB promulgated in the Gazette a list of registered organizational members (nominating organizations) and registered individual members (nominating individuals) of the 10 nominating bodies.</li> </ul>
Phase II: Voter registration	11 June to 19 July	<ul style="list-style-type: none"> <li>❖ Nominating individuals are automatically qualified as voters and need not register.</li> <li>❖ Nominating organizations (including both newly and previously registered ones) must help their own members (individual members, eligible employees and group/corporate members) register as voters, with the following points to note - <ul style="list-style-type: none"> <li>(a) in cases of multi-discipline organizations where the organizations concerned have been specified as</li> </ul> </li> </ul>

		<p>members of the nominating bodies of more than one arts interest, each member could be registered under one of the arts interests only; and</p> <p>(b) for organizational/corporate members of the organizations concerned, only one representative of each organizational/corporate member is eligible to be registered as voter.</p>
Phase III: Nomination of candidates	3 August to 16 August	<ul style="list-style-type: none"> <li>❖ A candidate has to be a registered voter from the arts interest for which he is seeking candidature. The minimum number of proposers required is five or 1% of the number of the registered voters from the same arts interest, whichever is the higher.</li> <li>❖ A proposer must be a registered voter from the same arts interest as the candidate and might nominate one candidate.</li> </ul>
Phase IV: Electioneering and polling	20 August to 19 September	<ul style="list-style-type: none"> <li>❖ 3 days for polling on 17 - 19 September 2010 (from 9 am to 9 pm).</li> <li>❖ A "cross-arts interests voting" system is adopted (i.e. if there are no uncontested seats, each registered voter will be voting for each of the 10 arts interests, casting a total of 10 votes).</li> </ul>

Source: HAB's official website for the 2010 Nomination Exercise  
<http://www.voteforhkadc2010.hk/eng/index.php>



**Nomination of arts interests representatives for HKADC  
Eligibility requirements for being a voter, a candidate or a proposer  
in the 2010 nomination exercise**

Roles	Requirements
A voter	<ul style="list-style-type: none"> <li>(i) be aged 18 years or above; and</li> <li>(ii) be a member or an employee directly involved in arts activities of an organization which has registered as nominating organization in the nomination exercise, and has joined the organization for not less than one year prior to the start date of the nomination exercise, i.e. 30 March 2010; or be an individual arts worker who has registered as a nominating individual.</li> </ul>
A candidate	<ul style="list-style-type: none"> <li>(i) be a registered voter of the arts interest for which he/she is standing for candidature; and</li> <li>(ii) be nominated by five proposers or 1% of the number of the registered voters from the same arts interest (whichever is the higher).</li> </ul>
A proposer	<ul style="list-style-type: none"> <li>(i) be a registered voter of his/her respective arts interest; and</li> <li>(ii) shall make only one nomination in the nomination exercise.</li> </ul>

Source: *HAB's official website for the 2010 Nomination Exercise*  
<http://www.voteforhkadc2010.hk/eng/index.php>

**Nomination of arts interests representatives for HKADC  
Polling results of the 2010 exercise**

<b>Arts Interest</b>	<b>Candidate Number</b>	<b>Candidates</b>	<b>Votes Received</b>
Arts Administration	1	Ms CHEUNG Chu Yu	280
	2	Mr WU Shou Nan (NG Kang Fai)*	650
			(blank votes: 971)
			(void votes: 8)
Arts Criticism	--	-----	-----
Arts Education	1	Mr HEUNG Lui	197
	2	Mr WAI Ching	250
	3	Ms TSE Siu Wah	120
	4	Mr CHAN Wai Lun	84
	5	Ms CHOI Tsz Kwan*	260
	6	Ms HO Yuk Ching	45
			(blank votes: 947)
			(void votes: 6)
Dance	1	Mr HO Ho Chuen*	814
	2	Ms YEE Fui Koon	256
	3	Mr CHOW Man Fai	103
	4	Ms FU Kit Yun, Deirdre	124
			(blank votes: 593)
			(void votes: 19)
Drama	--	Mr KO Tin Lung	Uncontested
Film Arts	1	Mr TO Kei Fung*	781
	2	Mr CHUI Wan Shun, Vincent	369
			(blank votes: 754)
			(void votes: 5)

\* Candidate received the highest number of votes in the respective arts interest

Arts Interest	Candidate Number	Candidates	Votes Received
Literary Arts	1	Mr WONG Wai Ming, Otis	96
	2	Mr CHENG Wai Ming, Peter	98
	3	Ms TANG Siu Wa	304
	4	Mr TANG Kei Sang	169
	5	Mr CHOI Yick Wai*	467
			(blank votes: 766)
			(void votes: 9)
Music	1	Ms FEI Barbara*	801
	2	Mr LAM Chun Kwok	60
	3	Mr LAM Kwok Pan	173
	4	Ms FONG LIU Show May, Helen	193
			(blank votes: 672)
			(void votes: 10)
Visual Arts	1	Mr LEE Kam Yin*	649
	2	Mr IP Ho Lun, Roland	332
	3	Mr KWOK Chi Lap, Frank	160
			(blank votes: 764)
			(void votes: 4)
Chinese Opera (Xiqu)	1	Mr YUEN Siu Fai*	1141
	2	Ms AU Man Fung, Bernice	276
			(blank votes: 479)
			(void votes: 13)

\* Candidate received the highest number of votes in the respective arts interest

Source: HAB's official website for the 2010 Nomination Exercise  
<http://www.voteforhkadc2010.hk/eng/index.php>

**Nomination of arts interests representatives for HKADC  
Voter turnout rate of the last four nomination exercises**

Year	2001	2004	2007	2010
Number				
(a) Number of registered voters	7253	5337	7029	7071
(b) Number of turnout voters	703	1163	1836	1909
(c) Voter turnout rate	9.7%	21.8%	26.1%	27%

Source: HAB's official website for the 2010 Nomination Exercise  
<http://www.voteforhkadc2010.hk/eng/index.php>

**Relevant documents on  
Matters relating to the nomination of representatives of arts interests  
for the Hong Kong Arts Development Council**

<b>Committee</b>	<b>Date of meeting</b>	<b>Papers</b>
Panel on Home Affairs	18.5.1999 (Item I)	<a href="#">Agenda</a> <a href="#">Minutes</a>
House Committee	14.1.2000 (Item VI)	<a href="#">Agenda</a>  <a href="#">Report of the Bills Committee on Hong Kong Arts Development Board (Amendment) Bill 1999</a>
Council Meeting	21.10.2009	<a href="#">P.A.C. Report No. 52</a>  <a href="#">Government Minute in response to P.A.C. Reports No. 51A and 52</a>  <a href="#">Hansard</a>
Panel on Home Affairs	18.3.2011 (Item III)	<a href="#">Agenda</a> <a href="#">Minutes</a>

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