

Legislative Council House Committee
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

The Fifth Report of the Constitutional Development Task Force:
Package of Proposals
Legislative Timetable
(Translation)

Purpose

This paper briefs the Subcommittee on the legislative timetable for implementing the package of proposals put forth in the Fifth Report of the Constitutional Development Task Force.

The Fifth Report of the Constitutional Development Task Force

2. The Constitutional Development Task Force published the Fifth Report on 19 October 2005, putting forth a package of proposals on the methods for selecting the Chief Executive ("CE") in 2007 and for forming the Legislative Council ("LegCo") in 2008. As regards legislative work, there are three levels of legal procedures in implementing the proposed package in the Fifth Report:

- (a) amending the relevant provisions of Annex I and Annex II to the Basic Law;
- (b) amending the relevant local primary legislation: the Chief Executive Election Ordinance (Cap. 569) and the Legislative Council Ordinance (Cap. 542); and
- (c) amending the relevant subsidiary legislation by the CE in Council and the Electoral Affairs Commission ("EAC").

Amendments to Annex I and Annex II to the Basic Law

3. There are two stages regarding the procedures for amending the provisions of Annex I and Annex II to the Basic Law. The first stage (i.e. endorsement by a two-thirds majority of all the Members of LegCo and consent of the CE) will be undertaken in Hong Kong. The second stage (i.e. approval or acceptance for record by the Standing Committee of the National People's

Congress (“NPCSC”) on the amendments proposed by Hong Kong) will be undertaken by the Central Authorities. Indeed, Clause 3 of the Interpretation made by the NPCSC on 6 April 2004 makes it clear that the relevant amendments will only take effect after they have gone through the above process.

4. To facilitate discussion by the community, the Constitutional Development Task Force has set out in Annex B and Annex C of the Fifth Report respectively the draft motions to be put by the HKSAR Government to LegCo concerning the amendment to the method for the selection of the CE and the amendment to the method for the formation of the LegCo. The Report also attaches the (Draft) Amendments to Annex I and Annex II. The plan of the Task Force is that, not later than December 2005, it will formally present to LegCo the motions on the (Draft) Amendments, and endeavour to obtain the Council’s endorsement on 21 December 2005.

5. If the relevant proposals receive the endorsement of LegCo and the consent of the CE, we envisage that the CE will submit a report together with the (Draft) Amendments to the NPCSC in late December. We envisage that the NPCSC would scrutinize and decide on whether to accept the (Draft) Amendments in late December.

6. If LegCo does not endorse the above motions by 21 December 2005, we can only strive to request the NPCSC to scrutinize and to decide on whether to accept the (Draft) Amendments at its meeting to be held in end February 2006. As a result, the First Reading of the Chief Executive Election (Amendment) Bill will have to be deferred to March 2006 or later. The time that LegCo would have in scrutinizing the Bill will be considerably shortened as a result.

Amendments to the Chief Executive Election Ordinance

7. If the proposed amendments to the relevant provisions of the Annexes to the Basic Law is agreed by the NPCSC at its meeting in late December 2005, we will be able to introduce the Chief Executive Election (Amendment) Bill (“the Bill”) into LegCo in January 2006 so that the Council will have adequate time to scrutinize the detailed provisions of the Bill from January to April 2006.

8. We envisage that LegCo would resume the Second Reading debate and the Third Reading of the Bill in early May 2006. If the Bill could not be passed by LegCo in time by early May, it would be difficult to complete the amendment procedures in respect of the subsidiary legislation within the

2005/2006 legislative year (please see paragraphs 9 and 10 for details). Furthermore, as the legislative work relating to the Bill will only be completed by May 2006, we need to extend the deadline for voter registration as stipulated under existing legislation^{Note 1}. This will enable eligible electors of the EC subsectors to be registered after the passage of the Bill so that they can participate in the EC subsector elections to be held in end 2006.

Amendments to Relevant Subsidiary Legislation

9. After the passage of the Chief Executive Election (Amendment) Bill, the CE in Council and the EAC will amend the relevant subsidiary legislation in the light of the content of the primary legislation. The amendments to the subsidiary legislation include relevant deadlines in respect of the voter registration cycle, consequential to the extension of the deadlines for voter registration in 2006^{Note 2}. Besides, as the number of members of the Election Committee (“EC”) is to be increased from 800 to 1 600, we need to amend the relevant subsidiary legislation so that adjustments can be made to the number of members allocated to the various designated bodies of the religious subsector^{Note 3}.

10. According to section 34 of the Interpretation and General Clauses Ordinance (Cap.1), negative vetting of subsidiary legislation normally takes four to seven weeks to complete. The last sitting of LegCo for the current legislative year is 12 July 2006. Thus, the relevant subsidiary legislation should be tabled by 17 May 2006 at the latest. Otherwise, the amendment procedures in respect of the relevant subsidiary legislation cannot be completed within this legislative year. The voter registration drive envisaged to be undertaken from July to October 2006 will then be affected (please see paragraph 11 for details).

Note 1 S.14(1)(a) of the Schedule to the Chief Executive Election Ordinance (Cap.569) provides that, in each year other than a year in which a District Council ordinary election is to be held, the Electoral Registration Officer should compile and publish a provisional register of voters for subsectors not later than 15 June.

Note 2 As relevant information on voters should be updated simultaneously, it is envisaged that voter registration drive for geographical constituency voters and for functional constituency voters will be conducted at the same time. The subsidiary legislation requiring amendment include the Electoral Affairs Commission (Registration of Electors) (Legislative Council Geographical Constituencies) (District Council Constituencies) Regulation (Cap. 541A) and the Electoral Affairs Commission (Registration) (Electors for Legislative Council Functional Constituencies) (Voters for Election Committee Subsectors) (Members of Election Committee) Regulation (Cap. 541B).

Note 3 Distribution of Number of Members Among Designated Bodies (Election Committee) Order 2001 (Cap 569D).

Voter Registration Drive

11. After completing the amendment procedures in respect of the subsidiary legislation, we plan to carry out the voter registration drive for the EC subsectors from July to August 2006. It is envisaged that the Electoral Registration Officer will publish the provisional register in mid-September 2006, and the final register in end October 2006.

EC Subsector Elections and Chief Executive Election

12. We plan to hold the EC subsector elections in December 2006, and the election for a new term Chief Executive in March 2007.

Amending the Legislative Council Ordinance (Cap. 542) and relevant subsidiary legislation

13. If the (Draft) Amendment to Annex II to the Basic Law is accepted by the NPCSC for the record, we envisage introducing LegCo (Amendment) Bill into LegCo in 2007 to provide for the electoral arrangements for the fourth term LegCo. After the amendments are made, the EAC will need to deal with the delineation of geographical constituencies. The relevant subsidiary legislation will need to be amended accordingly^{Note 4}.

Legislative Timetable

14. We have set out in the appended Table the details regarding the legislative timetable for Members' reference.

Conclusion

15. As shown in the above paragraphs, if any part of the legislative work cannot be completed as scheduled, the work on subsequent parts will be affected. The Administration will endeavour to work closely with LegCo on its legislative work so that it can be accomplished smoothly and in a timely manner.

Constitutional Affairs Bureau
3 November 2005

WH406

Note 4 Declaration Of Geographical Constituencies (Legislative Council) Order 2003.

Legislative Timetable

<u>Date/Period</u>	<u>Action</u>
<u>Stage I : Amending the provisions of Annexes I and II to the Basic Law concerning the two electoral methods</u>	
19 October 2005	Publication of the Fifth Report to put forth the Government’s proposed package and the draft motions concerning the amendments to the methods for selecting the Chief Executive (“CE”) and for forming the Legislative Council (“LegCo”)
19 October to late November ^{Note 1}	Consultation with LegCo on the Government’s proposed package and the draft motions concerning the amendments to the methods for selecting the CE and for forming the LegCo
21 October	The House Committee of LegCo formed a Subcommittee to Study the Administration’s Proposals on the Methods for Selecting the CE in 2007 and for Forming the LegCo in 2008
late November/early December	The Subcommittee to Study the Administration’s Proposals on the Methods for selecting the CE in 2007 and for Forming the LegCo in 2008 to submit a report to the House Committee
6 December	Deadline for the Government to give notice of the motions concerning the amendments to the methods for selecting the CE and for forming the LegCo ^{Note2}
21 December [tentative]	The Government to present to the Council the motions concerning the amendments to the methods for selecting the CE and for forming the LegCo
22 - 23 December	If the motions are endorsed by LegCo, the CE to give consent to the (Draft) Amendments regarding the methods for selecting the CE and for forming the LegCo, and to report to the Standing Committee of the National People’s Congress (“NPCSC”)

^{Note 1} At the LegCo meeting on 19 October 2005, the Chief Secretary for Administration made a statement on the Fifth Report of the Constitutional Development Task Force. According to the schedule of meetings of the Subcommittee to Study the Administration’s Proposals on the Methods for Selecting the CE in 2007 and for Forming the LegCo in 2008, established under the House Committee of LegCo, its last meeting will be on 28 November.

^{Note2} According to Rule 29(1) of the LegCo Rules of Procedures, notice of motions shall be given not less than 12 clear days before the day on which the motion is to be considered by the Council or a committee of the whole Council. The Government, at this stage, intends to present the relevant motions to LegCo on 21 December 2005.

<u>Date/Period</u>	<u>Action</u>
late December	The NPCSC to scrutinize the (Draft) Amendments for approval (in the case of the amendments to Annex I) or for acceptance for the record (in case of the amendments to Annex II)

Stage II : Amendments to Local Legislation : Chief Executive Election Ordinance

January 2006	To introduce into LegCo the Chief Executive Election (Amendment) Bill (“the Bill”) (First Reading and Commencement of Second Reading Debate) ^{Note 3}
January to April	Bills Committee of LegCo to scrutinize the Bill ^{Note 4}
early May	LegCo to resume the Second Reading Debate and to proceed with the Third Reading and the passage of the Bill

Third Stage : Amendments to the Relevant Subsidiary Legislation

mid May	CE in Council and the Electoral Affairs Commission (“EAC”) to amend the relevant subsidiary legislation respectively ^{Note 5}
mid May to July	LegCo to vet the subsidiary legislation ^{Note 6}

^{Note 3} After the NPCSC’s approval of the Amendments to Annex I and its acceptance for the record of the Amendment to Annex II, the Government will introduce the Bill into LegCo in January 2006.

^{Note 4} The main content of the Chief Executive Election (Amendment) Bill has been set out in the Fifth Report of the Constitutional Development Task Force.

^{Note 5} As the legislative procedures of the Bill will not be completed until May 2006, we propose to extend accordingly the deadline for the registration of voters for 2006. According to the Electoral Affairs Commission (Registration) (Electors for Legislative Council Functional Constituencies) (Voter for Election Committee Subsectors) (Members of Election Committee) Regulation (Cap 541B), the original deadline for application for registration as a voter is 16 May 2006 (sections 19(1)(a) and 19(4)). The deadline for the Electoral Registration Officer to publish a provisional register is 15 June 2006 (section 29(1)(a)), and that for the publication of a final register is 25 July 2006 (section 38(1)). The Government will propose to amend the subsidiary legislation by extending the respective deadlines so that eligible voters can be registered as voters before the Election Committee subsector elections to be held in end 2006. The EAC and the Government may amend other parts of the relevant subsidiary legislation in the light of the content of the Bill.

^{Note 6} According to section 34 of the Interpretation and General Clauses Ordinance (Chapter 1), the scrutiny work normally takes 4 to 7 weeks. The last meeting of LegCo for the current legislative session is scheduled on 12 July 2006. Thus, relevant subsidiary legislation should be laid before LegCo no later than 17 May 2006.

<u>Date/Period</u>	<u>Action</u>
<u>Other Related Arrangements</u> ^{Note 7}	
July to August 2006	Voter Registration Drive for the Election Committee subsectors
mid September	Publication of the provisional registers for the Election Committee subsectors
end October	Publication of the final registers for the Election Committee subsectors
late October to November	Nomination period for the subsector elections
December	Polling day for the subsector elections
January 2007	If necessary, handle appeals relating to the Election Committee subsector elections
1 February 2007	Commencement of the term of office of the Election Committee
25 March 2007 ^{Note 8}	Election of the Chief Executive

WH407

^{Note 7} After amendments are made to Annex II to the Basic Law, the Government will introduce the Legislative Council (Amendment) Bill into LegCo in 2007 to provide for the election of the fourth term LegCo in 2008.

^{Note 8} According to S.10(1) of the Chief Executive Election Ordinance (Cap. 569), the polling date for the CE election shall be the first Sunday which is at least 95 days before the expiry of the previous term of the CE. Hence, the polling will take place on 25 March 2007 (Sunday).