

Legislative Council Panel on Constitutional Affairs

**Methods for electing the Chief Executive and
for forming the Legislative Council in 2012**

The Task Group on Constitutional Development of the Commission on Strategic Development (CSD) discussed the issues relating to the methods for electing the Chief Executive and for forming the Legislative Council in 2012 at its meetings on 28 February, 27 March and 25 April 2008. Earlier on, the CSD secretariat has provided to the Panel secretariat the relevant discussion papers (CB(2)1177/07-08, CB(2)1436/07-08 and CB(2)1694/07-08) for Members' reference.

2. To facilitate Task Group members' further consideration of the relevant issues, a workshop was held on 29 May. Various organizations/think tanks were invited to attend the workshop and to exchange views with members on the two electoral methods for 2012. The organizations/think tanks which attended the workshop include:

- (a) Hon Mrs Anson Chan and her Core Group
- (b) Business and Professionals Federation of Hong Kong
- (c) Hong Kong Democratic Development Network
- (d) Hong Kong Professionals and Senior Executives Association
- (e) The Professional Commons
- (f) Savantas Policy Institute

3. The proposals put forth by the above-mentioned organizations/think tanks are provided at Annexes I to VI respectively for Members' reference.

Constitutional and Mainland Affairs Bureau
June 2008

**Fourth Meeting of the Task Group on Constitutional Development
of the Commission on Strategic Development on 29 May 2008
Presentation by Mrs. Anson Chan's Core Group**

Chief Secretary for Administration, Members,

On behalf of the members of my Core Group I would like to thank you for your invitation to present our views to you this afternoon. With me is Liz Boshier.

As time is limited I propose to dispense with any preamble and move straight to the key points I would like to make.

During his campaign for re-election, the Chief Executive made a firm commitment that [if re-elected] he would resolve, before the end of his second term of office, the issue of when and how the promise of full universal for the election of the CE and for all members of the Legislative Council would be resolved. However, at the first meeting of this Task Group the Secretary for Constitutional and Mainland Affairs clarified that the remit of the third term CE would be confined to dealing with issues relating to the two electoral methods for 2012. Far from the issue of universal suffrage being resolved once and for all by 2012, it seems that Hong Kong people are expected to wait until **after** 2017 to see clearly the final model of governance to be applied to them.

Putting aside the fact that, for whatever reason, the CE is now unable to fulfill the commitment he made to Hong Kong people in the run up to his re-election, such a situation is both unreasonable and unworkable. Specifically, I can see no way for this Task Group to fulfill that part of your terms of reference to lay [and I quote] "...a solid foundation for attaining universal suffrage for the Chief Executive in 2017 and for the Legislative Council in 2020..." without placing your recommendations squarely in the context of a firm and final roadmap to achievement of full universal suffrage in 2017 and 2020. The package of electoral changes to be introduced in 2012 must, clearly and unequivocally, pave the way for the achievement of full universal suffrage no later than the prescribed dates.

Please be mindful of why the Government's 2005 package of proposals failed to gain the necessary support of two-thirds of the Legislative Council. Quite simply, it was not obvious to the critical observer how the measures it proposed would result in real progress being made towards attainment of full universal suffrage. It is in no one's interest that the package of proposals which emerges from this consultation process meets the same fate; this is why it must be capable of securing the broad based endorsement of all the major political parties represented in LegCo.

I would now like to set out what we consider to be the key elements of a package capable of securing the necessary support of LegCo Members.

First, the Government must assure Hong Kong people that they will be governed in accordance with an internationally accepted definition of universal suffrage. Bearing in mind that Article 39 of the Basic Law provides for the terms of the International Covenant on Civil and Political Rights (ICCPR) to be implemented through the laws of Hong Kong, we believe that the Government should state clearly that the definition of universal suffrage to be applied in Hong Kong will be consistent with that laid down in Article 25 of the ICCPR which states that:

'Every citizen shall have the right and opportunity

- (a) to take part in the conduct of public affairs, directly or through freely chosen representatives;
- (b) to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors.

Our view that Functional Constituency (FC) elections are fundamentally inconsistent with this definition and must therefore be abolished is well known. Far from being alone in this view, I note that there is a broad consensus across political party lines, including leading members of the Liberal Party and the DAB, that FCs must be abolished before we can honestly say that **universal and equal suffrage** has been achieved. It was therefore extremely surprising to hear the CE state, during a recent Members' Question Time in the Legislative Council, that he believes that under certain arrangements, functional constituencies can achieve the principle of equal and universal suffrage.

It is frankly hard to see how any real progress can be made until the Government makes a firm statement in principle that FCs will be abolished and by what date. Then the community will be able to focus squarely on the practical issue of whether they should be removed in phases or all in one go.

Let's not forget that, when FCs were initially introduced in 1985, they were never intended as anything other than a halfway house between the previous government appointment system and one-man-one-vote. Given that some have electorates numbering only a few hundred and that others quite shamelessly seek to promote their own vested interests rather than the common good, how can it be argued that they contribute to 'balanced participation'. In a true democracy the balance of participation will find its own level naturally, because no particular

grouping will have an unfair advantage when it comes to representation in the Legislature.

As regards possible changes in 2012 to the LegCo electoral arrangements our views are:

- As we firmly believe that FCs should be abolished to make way for full universal suffrage, we see no particular benefit in increasing their number in 2012, particularly as this raises the problem of which additional groups should be included.
- We do not support adding more FCs elected from among District Board members, because DCs do not actually represent any functional sectors and their constituencies overlap with those of LegCo Members directly elected from geographical constituencies.
- In 2012 the emphasis should be on increasing the franchise of existing FCs and broadening the mandate of those Councillors elected by them. Along the lines of the recommendations in the report by my Core Group: 'The Road to Universal Suffrage' published on 5 March 2007, we recommend two specific measures:
 - that the concept of corporate voting be redefined to encompass all members of the Boards of Directors, Executive and/or Management Committees of those companies, associations and organizations which currently exercise a single corporate vote. If this measure is implemented, we estimate that the overall number of voters for FCs would increase from the current some 215,000 to approximately 450,000;
 - the existing 30 FC seats be organized into ten groups for the purpose of electing LegCo Members, the rationale being that this will strengthen the mandate and representativeness of those elected in preparation for making way for full universal suffrage.

I note that while this last recommendation, namely of grouping FCs together for electoral purposes, has also been proposed in submissions from other groups and individuals, yet the concept has not been included as a possible option for consideration in any of the papers so far submitted for your consideration.

As regards the mechanism for election of the Chief Executive by universal suffrage, I can also confirm that the views expressed in my Core Group Report have not changed. In essence these are:

- We are in broad agreement with the concept that the present Chief Executive Election Committee evolve into the Chief

Executive Nominating Committee specified in Article 45 of the Basic Law.

- We see no particular advantage in increasing the size of the Nominating Committee, but we do consider it essential that the Committee be made more genuinely representative of the Hong Kong community by broadening the franchise along the lines we have suggested for broadening the franchise of the LegCo FCs.
- To enhance the prospects for genuinely contested election of the CE we recommend that the minimum number of nominations required by each candidate be fixed at 10% of the total size of the Nominating Committee.
- There should be **no** requirement on candidates to obtain a minimum number of nominations in each of the four sub-sector groupings, as this will reduce voters' choice and possibly quite unfairly and unreasonably lead to a filtering out of candidates who enjoy widespread popular support.

On a final point, I note with some unease suggestions that there should be moves to reduce and perhaps progressively phase out the currently permissible quota of LegCo Members who are not Chinese Nationals or who have right of abode in foreign countries. In this regard I would like to make two observations:

- First, the provision that up to 20% of LegCo Members may fall into the above categories is set down in Article 67 of the Basic Law, not in Annex II. There is therefore no implication to be drawn that this was intended to be a short term or transitory measure.
- Secondly, it is a fact that the majority of non-ethnic Chinese Permanent Residents of Hong Kong are unlikely to qualify for Chinese Nationality under present criteria. Therefore, to impose a requirement that all Members of LegCo be of Chinese Nationality would effectively bar these groupings from the right to stand for election and fly in the face of any true concept of fair and universal suffrage.

Mr. Convenor, Members, this concludes our presentation. Thank you for your attention.

BPF Paper to the Task Force on Constitutional Development of

The Commission for Strategic Development

Formation of the Legislative Council

1. The way forward is to pay careful attention to the Decisions of the Standing Committee of the National Peoples Congress (NPCSC).

"The fifth term of the Legislative Council in the year 2012 shall not be implemented by the method of delivering 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."

2. A further decision of the NPCSC is also quite clear: the functional constituencies are to remain an integral part of the political system until after the election of the Chief Executive by universal suffrage, possibly in 2017. To express views to the contrary or to try to promote a different system or even universal suffrage for all in 2012 is just wasting time.

3. Size of the LegCo

From the views expressed around the table of the Task Force a consensus has emerged that there should be an increase in the size of the LegCo. This is needed principally in the BPF view to ease the pressure of work on the Legislature. To conform to the principle of "gradual and orderly progress" an increase from 60 to 70 is thus supported by the BPF, with five members being allocated to each half of the council.

4. Allocation of the extra seats

It has been suggested that extra functional constituency seats should be awarded to the District Councils. This is contrary to the Decision of the NPCSC, because District Council members are elected by geographical and not functional constituencies. We should stick to the Decision and allocate the extra seats to true functional constituencies not try to advance a directly elected legislature by stealth!

Allocation of the extra seats:

- a) The Women's Federation, and emphasis is on the word "Federation", can claim to represent a substantial functional constituency as defined by an earlier definition as

an "organizations and associations" representing particular groups in the community.

- b) Small and medium enterprises (SMEs) play a major role in our economy. There are over 200 SMEs organised into an Association. Having regard to previous strictures about the need to enable different sectors to participate in politics, and to give due attention to the economy, SMEs have a major claim to be allocated a seat.
- c) Some functionals should be split:
 - Performing arts, culture and publication split from sport: both are separately organised;
 - Architecture and planning from surveying;
 - Real estate and construction could be split to advantage. Construction industry now has a council while real estate and property is quite distinct.

5. Improvements to and expansion of existing constituencies

- a) There is no reason why retired professionals belonging to a definable profession – doctors, lawyers, accountants, etc, should not be enabled to vote in their retirement. The number of these members is considerable and growing, for them to continue to be able to vote is desirable also from a societal point of view.
- b) Registered and accredited agents in the insurance industry could be given the vote.
- c) There have been very many calls for modest change to reform of corporate voting. These should be carefully evaluated and a response from the administration be forthcoming.

In short, there are many ways to improve the credibility of the functional constituency system: This should be our aim, to give as many people as possible the vote so that virtually the whole electorate is involved. This would lead to a system whereby each elector has two votes. Since we have to maintain the system according to the Decision, we should concentrate on improving it. Effort should now be employed on how to achieve this. As a final point, were we to arrive at a system of 'one person two votes' in 2012 or 2017 it would be easier to segue in later years to a more conventional form of universal suffrage and then the direct election of the two halves of the whole Council.

6. Here it is useful to draw attention to the importance the Decision attaches to the present

methods of voting on motions and bills in the Council. This in effect divides the Council into two. It is suggested here that, in the eventual event of the Council being elected by universal suffrage, the retention of this voting method and the replacement of the functional half of the Council by directly elected members representing large geographical constituencies, say of 250,000 electors, would in effect produce the half of the Council replacing the functional constituencies representatives by different and "larger" personalities, capable of exercising a restraining influence, taking a broader view than the more district based and party driven views of the other half of the Council.

Election of the Chief Executive

7. The BPF has written extensively on this subject, its views are driven not simply by the narrow interest of the SAR but also the need to meet with those of Central Government expressed in the Basic Law that the elected candidate must secure the approval of the Central Government. What better way to ensure this than to require the candidates to have at least a number of nominations from the National People's Congress members of the fourth sector?
8. The BPF recommends that all candidates to have at least some support from each of the four sectors, professionals, social groups, economic interests, Councillors and NPC delegates. This will lead to the election of candidates who have broad sectoral support, who do not merely represent a narrow party or sectional interest. This is practical politics, the politics of compromise and consensus which hopefully we are seeking to achieve.
9. The BPF would particularly emphasise that if a candidate cannot obtain even a small handful of nominations from the NPC delegates it is not worth entering the race except for nuisance value or for scoring a political point without any hope of subsequent approval.
10. Requirements recommended by the BPF for successful nomination of the Chief Executive in 2012

a) Premises:

- Nomination Committee = 800 members (made up of four sectors of 200)
- LegCo = 70 members

- b) The following is the composition of the requirement for successful nomination and is merely indicative:

- First, Second & Third Sectors:	20@ x 3 sectors	=	60
- Fourth Sector:	15 LegCo + 5 optional <i>(to include some from NPC members)</i>	=	20
- From any of the four sectors		=	20
Total nominations			<u>100</u>

Notes: Those numbers could be modified: the principle is to nominate candidates with some support from each sector.

11. With regard to the size of the Election Committee BPF have said on numerous occasions that a Committee of 800 is sufficient, to increase it is merely cosmetic, playing with numbers, without any practical effect

12. Choice of the final candidate

- a) After completion of nomination by this process, the final choice between the competing candidates in 2017 should be put to all registered voters to elect the CE through one man one vote. This would amount to universal suffrage for the election of the CE. The ultimate goal stated in the Basic Law (Article 45) would then have been achieved. The Chief Executive at the end of the day could legitimately claim that he had wide public support.
- b) The merit of a two-round run-off between the two candidates with the highest number of votes needs careful evaluation. In theory it should produce a majority winner, on the other hand one-round first-past-the-post voting method may produce a winner with less than 50% of the total vote. However, the possibility of a run-off discourages the coalition of opposing parties during the run up to the first round of the election in the hope of winning in the second round runoff. Political parties making the decision to run their own candidate may have as their goal either to finish

in the top two in the first round or to demonstrate an electoral following that can be delivered in the runoff election to one of the top two finishers in exchange for political benefits in the future. Studies have shown the percentage of votes received by two leading parties in these circumstances tend to be smaller than those in one-round elections. Moreover, the run-off system encourages the development of political factions rather than the major coalitions, compromises and consensus produced by first past the post elections, e.g. U.S., etc.

- c) For these reasons the preferred option for the CE election is the one-round first-past-the-post voting, the candidate with the largest number of votes wins the election. Political forces hence in these circumstances will tend to form a broad coalition behind the "front-runner" and the opposition will also tend to coalesce behind one "principal" challenger to gather as many votes as possible.

What happens when the Task Force winds up?

- 13. I would suggest that a smaller representative group be distilled and appointed to draft some firm proposals from the views expressed around the table of the Task Force.

The Hon Sir David Akers-Jones

Revised: 5 June 2008

有關 2012 選舉辦法的建議

香港民主發展網絡

2008 年 4 月

前言

民主發展網絡認為，民主派政團應積極參與有關 2012 年的行政長官和立法會選舉辦法的討論。我們認為民主派可繼續爭取 2012 雙普選，並且繼續以憲制內外的各種方法，爭取中央改變初衷，容許香港在 2012 實施雙普選。但由於策略發展委員會已開展對 2012 的選舉辦法的具體方案討論，民主派政團如果在現階段只堅持 2012 雙普選為唯一的可能性，並且拒絕討論任何雙普選以外的方案，將會令各種保守方案壟斷有關討論，如果最終中央不改變 2012 沒有雙普選的決定，則特區政府只會就 2012 的選舉辦法，提出相當保守的選舉改革方案。我們因此建議民主派政團積極參與有關 2012 的選舉辦法的討論，並且提出在雙普選以外、他們可接受的最民主的方案。

民主發展網絡有關 2012 選舉辦法的討論方案

2012 如果未能推行雙普選，該年的選舉制度應是一個過渡至全面普選的中途站方案，其設計原則應為達致下一階段(即 2017 及 2020)邁向全面普選。主要精神應包括：(一) 方案為逐步民主化而邁向普選；(二) 應指向功能組別選舉的逐步取消，而非有關界別利益的鞏固，或令更多人或團體成為既得利益者。

立法會選舉辦法

- 2012 及 2016 的立法會選舉辦法，應以逐步取消功能團體議席，邁向全面普選為目標。
- 原則上，我們認為在 2012 和 2016 的過渡期，應以普選議席逐步取代功能團體議席，而令功能議席的數目或界別減少。期間我們建議將性質相近及／或選民人數接近功能界別合併。作為過渡方案，我們原則上不贊成擴大功能組別的選民基礎(例如將公司票或一會一票變作一人一票，如「新九組」式的方案)，因為這會製造更多既得利益者，長遠而言不利功能界別的最終取消，而且如果該改革方案只使用一兩屆，縱使短期內令功能組別選舉代表性提高，意義亦不大。

2012 具體方案

- 由於人大常委決議已規定 2012 不能變動功能組別和普選議席的比例，如果我們不能改變人大的決定，則 2012 只能：(a) 同時增加普選和功能議席；

或(b)以更民主的功能組別(如區議會)取代代表性較低的功能組別;或(c)擴大功能組別的選民基礎。我們選擇同時進行(a)及(b)的改革方向。

- 第一, 普選和功能議席各增五席, 令各為 35 席。
- 第二: 在 35 席功能界別中, 約一半由區議會議員互選產生。具體細節:
 - (一) 所有 405 名普選議員及 27 名當然議員均可投票, 委任議員無權投票, 所有經選舉產生的區議員組成單一的選舉團(即 432 人)。
 - (二) 投票以單一可轉移票制(single transferable vote)進行, 即如投票選出 18 名立法會議員, 每一選民(即區議員)可在選票上按其喜好次序順序填上第一選擇、第二選擇至第十八選擇, 凡候選人得票值達 Droop Quota (即總數的 1/19) 者則當選。這制度效果類似比例代表制, 選出的立法會議席分布, 將大致能反映各黨派在區議會的勢力對比。
- 餘下的 17 個功能議席, 我們建議透過合併現行的其他 27 個界別組成。合併的原則包括:(1) 業務或行業性質接近者合併;(2) 盡量希望合併的界別的選民人數較為接近, 否則選民人數較少的界別的利益, 可能在合併後的界別難以得到代表。
- 具體建議:(括號中是界別的相應選民人數)

1. 工業界(一)(二)合併為一席。(761+527)
2. 商業界(一)(二)合併為一席。(1053+1752)
3. 勞工界三席轉為兩席。
4. 工程界及建築、測量及有關專業、資訊科技合併為一席。(7688+5559+4976)
5. 漁農及鄉議局合併為一界。(160+151)
6. 飲食及批發零售合併為一席。(8013+4222)
7. 金融服務、金融及保險合併為一席。(569+134+141)
8. 出入口與紡織合為一席(1389+3812)。
9. 航運交通及旅遊界合併為一席(180+976)。
10. 醫學及衛生服務界合併為一席(9954+35391)。
11. 法律(5483)、會計(20329)、社會服務(11329)、地產(745)、體育文化(1894)、教育(84639)等各界別維持不變, 共 6 席。

2016 方案

- 立法會總議席增至 80 席, 60 席由分區直選產生, 20 席由區議會組成一功能組別, 參照 2012 的方法以單一可轉移票制選出, 其他功能組別議席全部取消。

行政長官產生辦法

民主發展網絡建議 2017 年特首的產生辦法，應根據基本法四十五條的規定：由一個具廣泛代表性的提名委員會提名，由全港選民普選產生。

特首候選人的提名制度，應根據下列原則：

- 提名程序應該是符合民主原則，以及符合國際上公認的民主原則。換言之，所有符合資格的香港永久性居民，應有平等的機會獲提名。由於基本法規定了必須由提名委員會提名（而並非公民提名），提名程序設計原則應為不設過高門檻，並且不會令提名委員會變相成為選舉委員會。
- 提名原則應以民主政治的「不排拒」(non-exclusive)為原則，即提名制度的設計不應為排拒某些政治力量參選而作出。要符合國際公認的民主標準，提名形式必須令不同黨派的候選人，只要有一定程度的公眾支持，都可以有合理機會獲得提名。

2017 選舉辦法

- 提名委員會主要由五大界別組成：即現選舉委員會的 800 人的四大界別，以及加上所有民選區議員作第五界別，共約 1200 人。
- 參選者必須至少獲得 100 名提名委員提名，其中包括立法會議員的至少四份一，才可成為特首候選人。這樣可確保選出的特首至少可獲立法會相當部份議員支持（四份一），有利行政立法關係，亦會令特首候選人不會超越四名，避免票數及政治利益過於分散。
- 獲得足夠提名委員的候選人（二至四名），將交由全港合資格選民投票選出。如果只得一名候選人獲提名，仍須付諸所有合資格選民確認，該特首候選人必須得到總投票選民的過半數支持，才可成為特首。

2012 年選舉辦法

- 2012 年選舉辦法，作為邁向 2017 普選的中途站方案，改革的目標可以多樣，但我們認為作為過渡方案，2012 的選舉委員會組成，應該是 2017 的提名委員會的基礎。我們因此建議 2012 的特首由選舉委員會產生，選舉委員會的組成和上述的 2017 提名委員會一樣。委任區議員不是選舉委員會成員。



HONG KONG PROFESSIONALS AND SENIOR EXECUTIVES ASSOCIATION

香港專業及資深行政人員協會

就
2012 年行政長官及立法會的產生辦法
意見書

2008 年 5 月



香港專業及資深行政人員協會

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	羅范椒芬女士, GBS, JP	李惠光先生
	梁建楓先生	梁定宇先生
	莫華倫先生	伍山河牧師
	彭詢元先生, SBS, CSDSM	彭華先生
	鄧淑明博士	曾其鞏校長, BH, MH
	黃友嘉博士	吳德龍先生
	楊位醒先生, MH	

註：排名依英文姓氏字母排列



香港專業及資深行政人員協會

政治及公共行政委員會

聯席主席： 林大輝博士太平紳士
梁美芬博士
史泰祖醫生

委員： 容永祺先生, MH, JP (創會會長)
歐陽士國先生 陳偉佳校長
陳世強律師 胡曉明先生, JP
郭棟強先生 林義揚先生
羅祥國博士 羅志遠律師
羅裕群先生 羅范椒芬女士, GBS, JP
羅志聰先生 李鏡波先生
梁永安先生 白富鴻先生
沈培華博士 張連惠馨女士
曹聖玉女士 黃夢瑩律師
王瑞明先生 黃正虹先生
黃友嘉博士 吳德龍先生

註：排名依英文姓氏字母排列

根據全國人民代表大會常務委員會於 2007 年 12 月 29 日通過「關於香港特別行區 2012 年行政長官和立法會產生辦法及有關普選問題的決定」，明確了香港達至普選的時間表。香港專業及資深行政人員協會轄下的政治及公共行政委員會，經過深入研究和討論後認為，雖然人大常委會的「決定」已訂明 2012 年行政長官和立法會的產生辦法，不實行普選，但相信仍有不少空間可以作出修訂。

我們認為，由於公眾普遍期望 2012 年兩項選舉均可以提升民主成分，並視為最終普選的中途站，因此，選舉辦法不宜原地踏步，應循序漸進地朝著 2017 年普選行政長官及 2020 年普選立法會的目標進發，循序漸進地實現民主制度。具體建議如下：

甲．行政長官產生辦法

選舉委員會

1. 選舉委員會委員人數，由現時的 800 人增至約 1,200 人，讓更多社會各界人士參與，可增加委員會的廣泛代表性和認受性，讓市民大眾有更多空間及機會參與行政長官選舉。
2. 就如何分配選舉委員會新增的議席，過去社會人士提出多個不同方案，包括調整現行四個界別席位數目的比例，和增加區議員的席位數目。目前選舉委員會只有 42 個席位來自區議員；由於大部份區議員由三百多萬選民選出，具有民主成份及民意基礎，而委任區議員亦大部分具專業背景，可增加選舉委員會的多元化，同時亦是建制的一部分，故此建議選舉委員會加入全體區議員。
3. 過去，一直有社會人士提出增加新的界別分組，如婦女界、中小企界，或分拆和合併現有界別分組；但由於每項建議均有充分理由，且頗具爭議性，較難獲得社會共識；若涉及分拆和合併界別，更難以平衡各界的訴求和利益。既然 2012 年行政長官的選舉辦法，具有過渡至普選的意義，因此建議維持現行的界別分組安排。

4. 有意見認為應擴大選舉委員會的選民基礎，例如把「公司/團體票」轉為「董事/個人票」。本會認為，由於公司規模和架構各有不同，每間公司的董事人數懸殊，難以避免「種票」情況；加上不少社會人士身兼多家公司的董事，若把團體票改為個人票，將有可能出現一人多票的情況，造成大量選民重疊計算，因此不宜把團體票改為個人票。

行政長官選舉的提名安排

5. 由於選舉委員會人數增至約 1200 人，提名人數也相應提高，建議提名所需人數佔委員會總人數的八分之一，以確保候選人有足夠支持，和不會出現過多或過少的候選人。

2017 年行政長官提名委員會

6. 若上述建議獲得採納，2012 年選舉委員會的人數和組成，應已符合「基本法」附件一「具有廣泛代表性」的規定，故此建議該屆選舉委員會直接過渡成為 2017 年行政長官的提名委員會。

乙．立法會產生辦法

立法會議席數目

7. 根據人大常委會的「決定」，2012 年立法會選舉不實行全體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。由於 2012 年是實現議席全面普選的中途站，邁向 2020 普選，我們相信增加議席數目，將鼓勵更多有志服務全港市民的社會人士參政，有助培養具質素的政治人才，長遠將有利政黨的發展。因此在考慮擴大功能界別的代表性，以及不違反循序漸進的原則下，宜先行增加 10 席，即由現時的 60 席增至 70 席，逐步增加議席數目。基於分區直選和功能團體需同步增加議席，因此兩者各增加 5 席。

新增分區直選議席的產生辦法

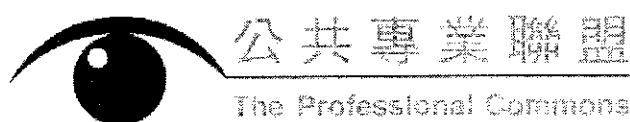
8. 由於 2012 年議席數目將會增加，建議分區直選議席增加 5 席。不論新增議席按人口比例分配到各原有選區，或按現行選區每區增加 1 席，或重定選區劃界，均可保證產生辦法公平公正。

新增功能界別議席的產生辦法

9. 至於 5 個 新增功能團體的議席，若透過增加新界別產生，將引起社會極大的爭議；因為新增議席既要兼顧各階層利益，又要考慮新增界別在社會上的代表性和重要性，因此有關討論將帶來更大的爭拗影響社會和諧。所以建議新增的 5 個功能團體議席由全體區議員透過互選產生，相信此舉可藉著區議會代表擴闊議席的選民基礎。

非中國籍和持有外國居留權的議員比例

10. 根據「基本法」第 67 條，非中國籍和持有外國居留權的議員數目，不得超過立法會全體議員的百分之二十。而「立法會條例」容許非中國籍或持有外國居留權的香港永久性居民，循 12 個功能界別參加立法會選舉。我們認為，為顧及參政人士多元化，維持香港國際化的形象，以及吸納移民國外的港人回流參政，建議維持現行百分之二十的限制安排，此舉既符合「基本法」的規定，又可減少不必要的爭論。



Position Paper on Constitutional Reform in 2012

4 May 2008

The Government and the Commission on Strategic Development are preparing the 2012 political structure reform. As a group of professionals devoted to the development of Hong Kong, the Professional Commons would like to respond via this paper.

We are to provide a proposal for the 2012 political structure reform as a starter to encourage more discussions and debates. We call for the participation of the public and various groups to open dialogue, and to search for consensus that will move Hong Kong forward towards a more open and fair society with more participation, with democracy as an agent.

The Professional Commons also proposes a set of performance metrics for measuring the effectiveness of the different proposals in meeting the objectives of political reform. We think this is the way to promote more transparent and open communication.

Background

1. Under the Articles 45 and 68 of the Basic Law, Hong Kong is entitled to electing the Chief Executive and Legislative Council by universal suffrage.
2. The Professional Commons submitted the “Response to the Government's Green Paper on Constitutional Development” in October 2007. We expressed that these two goals can be achieved in 2012.
3. Our views reflected the majority of the Hong Kong citizens who are longing for a faster pace of democratic development. Such demand was voiced since the 1980s and with over 20 years of progressive political development in the District Board/District Council and Legislative Council elections, Hong Kong is more than ready for the 2012 dual universal suffrage.
4. In the Report on Hong Kong's Constitutional Development by the Chief Executive to the Standing Committee of National People's Congress (NPCSC) in December 2007, the Chief Executive admitted the wishes of the majority of the citizens for a faster progression towards democracy. However, he still proposed a comparatively slow pace towards democracy in Hong Kong, with first Chief Executive election by universal suffrage in 2017, leaving the realization of universal suffrage of the Legislative Council to a later, uncertain date (despite claims by the Chief Executive that this can occur in 2020).
5. The resolution made by the NPCSC further confirmed the slower pace as proposed by the Chief Executive of HKSAR, leaving a large gap between the legitimate expectations of the majority of Hong Kong citizens and what is envisaged by the NPCSC.
6. At the same time, the NPCSC clearly stated that the first election of Chief Executive by universal suffrage is possible in 2017. Any political reform of Legislative Council before 2017 is admissible provided it is consistent with the current composition of members from elections in the geographical constituencies and the Functional Constituencies (FCs).
7. We must be clear that according to the Basic Law, the legislature and the Chief Executive of Hong Kong are ultimately to be chosen by universal suffrage, and FCs should be removed. This is in line with the hope of the majority of Hong Kong people. The resolution of the NPCSC also provides the achievement of universal suffrage in Chief Executive Election in 2017.
8. With universal suffrage as our destination in the journey of political development, the 2012 political arrangements must be planned as a check point of progressive democratic changes

along the path towards the destination. Any political arrangements in 2012 and afterwards must be more open and democratic compared to the previous one. Deviation or backtrack in the course should be avoided in the design.

Deficiencies of the Current Election System

1. Under the current election system of Hong Kong, the Chief Executive is elected by an 800 member Election Committee according to the following distribution. Apart from category 4, the Election Committee members are elected via the FCs.

1. Industrial, commercial and financial sectors	200
2. The professions	200
3. Labour, social services, religious and other sectors	200
4. LegCo members DC representatives HK Deputies to NPC Representatives of HK members of National Committee of the Chinese People's Political Consultative Conference	200

The Legislative Council has 60 seats, with 30 seat elected via geographical constituencies and 30 seats via FCs.

2. Therefore the FCs play a very important role in the election of both the Chief Executive and the Legislative Council. Yet, we can see that it suffers from several major defects.
3. The first defect is under-representation. As seen in Table 1 in the next page, the total number of registered electors in the 28 FCs in 2007 is 212,825. According to the "Quarterly Report on the Household Survey of 2007-Q4" (QRHS, 2007Q4), the total number of persons engaged in different business, industrial and professional occupations amounted to 3,663,892. The current FC voters only contribute to 5.8% of the total number of people from all the working sectors in that survey. If we take into account another 2,189,006 people who are not included in any economic sector, (like Persons engaged in household duties, Permanent Sick/Disabled, Unemployed, Other Economically Inactive Persons, Local Full-time Adult Students and Retired Persons), the current electors in FCs contribute to only 3.6% of the adults in Hong Kong who should have the right to vote.
4. The second defect is that many of the FCs are adopting corporate votes. Taking out Heung Yee Kuk and District Council, we have 26 FCs formed by business and professional sectors. Using the "Quarterly Report of Employment and Vacancies Statistics (2007 December)" to calculate the representation of elector population in each of these 26 FCs (electors divided by total number of persons in that sector), we found that 13 FCs have representation of the sector at 1.4% or below! Great majority (11) of these 13 FCs have the domination by corporate votes. The voting right is the political privilege of only a handful of corporate voters.

Table 1: Under-Representation of Functional Constituencies in Hong Kong
(in decending order of Representation)

(QREVS, 2007-Dec): # of People Engaged as in the "Quarterly Report of Employment and Vacancies Statistics"

Name of FC	# of registered electors 2007	Distribution 2004		# of persons (QREVS; Dec 2007)	Representa tion
		Bodies	Individual		
Accountancy	20,329		100%	25,756	78.9%
Education	84,639		100%	144,336	58.6%
Health Services	35,391		100%	85,676	52.9%
Medical	9,954		100%		
Engineering	7,688		100%	16,754	45.9%
Legal	5,483		100%	18,060	30.4%
Architectural, Surveying and Planning	5,559		100%	19,237	28.9%
Social Welfare	11,329		100%	59,960	18.9%
Information Technology	4,976	6%	94%	27,798	17.9%
Textiles and Garment	3,812	98%	2%	25,201	15.1%
Sports, Performing Arts, Culture and Publication	1,894	97%	3%	19,282	9.8%
Catering	8,013	6%	94%	207,129	3.9%
Wholesale and Retail	4,222	40%	60%	303,973	1.4%
Tourism	976	100%		83,453	1.2%
Commercial (First)	1,053	100%		275,984	1.0%
Commercial (Second)	1,752	40%	60%		
Financial Services	569	93%	7%	60,580	0.9%
Industrial (First)	761	100%		266,280	0.7%
Industrial (Second)	527	100%			
Labour	556	100%			
Real Estate and Construction	745	60%	40%	104,337	0.7%
Insurance	141	100%		30,023	0.5%
Import and Export	1,389	55%	45%	521,039	0.3%
Finance	134	100%		89,158	0.2%
Transport	180	100%		139,863	0.1%
Agriculture and Fisheries	160	100%		N/A	N/A
District Council	442		100%		N/A
Heung Yee Kuk	151		100%		N/A

TOTAL 212,825

Commercial (Note 1)				
Rental of Machinery and Equipment	regarded as commercial		835	275,984
Business Associations			3,431	
Business Services			232,344	
Miscellaneous Personal Services			39,374	

Industrial and Labour (Note 2)				
Manufacturing	regarded as industrial		130,834	266,280
Construction			50,103	
Electricity and Gas			7,895	
Mining and Other Related Sectors			102	
Repair services			13,260	
Sanitary and Similar Services			57,996	
Laundry, dry cleaning and garment services			6,090	

Civil Servant	153,899
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TOTAL (excluding District Council and Heung Yee Kuk)	2,677,778
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For the other individual vote based FCs, over half of them have representation lower than 50% because of various reasons, like voter qualification requirement mandating joining of certain associations, certification / chartership and years of experience.

In general, individual practitioners in the related sector of these FCs have hardly any influence on the election and subsequently the political bargaining process. What is even worse is that a wealthy individual who incorporate more companies can exert influences to more than one corporate vote within one FC or cross to other FCs depending on his/her business diversity.

5. The third defect is the settings the current FC system makes up the rules of the game to encourage narrow interests rather than the overall interests of the society. In the election, candidates have to appeal to the voter of the same sector. It is natural he/she will be devoted the sector interests in the political platform. Secondly the domination of corporate votes implies the interests of corporations (employers) are not balanced with those of the employees. The existence of the current FCs will hinder integration of cross-sector interests in the political process.
6. The system fails to recognise the contributors of the society who are not included in the FCs. They include homemakers, retired personnel, unemployed, permanent disabled and sick and other economically inactive persons who are eligible to act as a voter in the geographical constituencies. They are more the economically powerless group. It is not only unfair that they are further deprived of their political rights but it also adversely affects the coherence of the society.
7. Though Hong Kong claim herself Asia's international city, the current election system fails to meet the requirement of Article 25 of the International Covenant on Civil and Political Rights ("ICCPR"), a document that is incorporated into Hong Kong law by Article 39 of the Basic Law, stating clearly that every citizen has the right "*to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage*". We elaborate that universal suffrage should include the following:
 - the requirement of the right of citizens to vote in elections for political representatives;
 - such a right must not be limited in any way by reference to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status;
 - universal suffrage implies both "universal" and "equal" representation;
 - any system of universal suffrage should conform with international standards; but
 - there is a range of systems which would be consistent with the concept of universal suffrage. In particular, the right to "equal" votes does not imply the need for a strict

numerical equality.

8. The Professional Commons believes that the overall electoral system must be reformed in these aspects:

Fair constituencies: the electoral constituencies must not be formed in such a way as to favour intentionally any political group. Whilst, by economic demographics, different geographical areas would tend to favour certain political groups, the system must not be tailored specifically to ensure that such groups will win any territory-wide elections overall.

Fair candidate nomination procedures: the right for voters to become candidates for election is also of great importance. Whilst both pragmatism and the Basic Law provide for the need for procedures to nominate candidates, such procedures must not be discriminatory in nature so as to limit unduly the range of choices available to voters.

Fair voting: each voter's ballot should (subject only to moderate discrepancies due to the impracticality of drawing constituencies of exactly the same size), to the maximum extent possible, have approximately equal value.

In this regard, the Professional Commons maintains that the FC must be totally abolished ultimately.

9. In the Chief Executive election, a few factors the nomination process can be manipulated to deter the competition of multiple candidates. The pool of nominators is small (namely the 800 Election Committee members) and they are elected by FC which is a small circle election. Furthermore, there is no maximum threshold for nominators. A dominant candidate can obtain excessive nominations so that the other candidates cannot obtain the minimum threshold of 100 nominators, as that happened in 2002 with Mr. Tung Chee Hwa elected as the Chief Executive without voting.

Criteria of Rating the Proposals to Political Reforms

1. There are many different proposals to the political reforms. They may be very complicated to understand. The public is made confusing and cannot focus on the main issues. Worst still, they will lose interest in the discussion which is too important to their future.
2. We try to develop a system of performance measuring metrics to compare the proposals to political reforms. This makes life easier for the public to consider different aspects of the proposals. These metrics can be applied in the 2012 political reforms.
3. Any such intermediate proposals must progress demonstrably towards universal suffrage. We believe the following are the yardsticks to measure the performance of each proposal.
 - The electorate base of the elections of both Legislative Council and Chief Executive must be expanded substantially from the current status.
 - The political system should move “in a direction” to allow each voter to have the same number of votes, and each vote should carry the same weight.
 - The FC should be reformed in a direction to
 - (a) avoid any entrenchment of the current FC which in turn will secure the vested interests, and
 - (b) favour its abolition in the future.
 - The reform in the election in FC should move towards more open competition, and to favour the development of political parties. There should not be uncontested seats in the election of any FC.
 - The reform of election in FC should move in a direction to encourage integration of political interests to harmonize conflicts in the election process.
 - The new setting must comply with the constitutional requirements set out by the Basic Law and the NPCSC resolution on the Hong Kong political development.
 - The nomination mechanism in Chief Executive Election should allow more than one capable candidate to compete by setting proper minimum and maximum nomination thresholds. (To put it more specific, we should not allow a dominating candidate to overwhelm the nomination to be automatically elected as in 2005; on the other hand, the scene of the competition of more than one candidate as in 2007 should be made easier than before).

- The Chief Executive election should progress towards a real universal suffrage in which voters' free choice is realized. (Any obstacles like pre-filtering and pre-election after nomination and before election are counterexamples of this metric).

Recommendation to Legislative Council Election in 2012

1. The ultimate fate of the FCs must be their entire abolition. In 2012, the FC should be reformed as an intermediate step to this end. The design objectives for reform of the Legislative Council election in 2012 are:
 - The electorate base in the FCs should be broadened and moved away from corporate votes.
 - All eligible voters in Hong Kong should be able to participate in both the elections for the geographical constituencies and FCs. We call this One-Person-Two-Votes.
 - Existing FCs should be merged to form larger FCs. Such merger will ensure no candidate from a single sector can dominate the election without the support from other sectors, thus reducing the “vested interests” factor inherent in the current composition of FCs. It is to encourage integration of interests from different sectors, to set the scene for the future universal suffrage. The setting is also to discourage the entrenchment of the vested interests of the existing small FCs.
 - Since each eligible voter should be allocated to a FC, new FCs should be created for voters not eligible to any current FCs.
 - The number of seats of each FC in the Legislative Council is proportional to the size of eligible voters in that FC.
2. We introduce the “Comprehensive FC” which is a revamping of the FCs into 6 larger FCs composed of mainly individual voters.
 - Four large FCs are to consolidate the current FCs which are categorized according to the nature of the business activities. They account for the 3.7 millions of the population.
 - Two new FCs are introduced for other non-business sector, professional or unionized labour voters. One is for adult students and retired persons. Another is for homemakers and economically inactive persons previously not included in FCs. They account for about 2 millions of population.
 - The electorate base of FCs consequently goes up 5.7 millions of voters to match that of the geographical constituencies.
 - The number of seats in Legislative Council elected via the FCs can remain at 30 or be

increased to 35. The seats of Legislative Councillor elected via geographical constituencies should always be equal to that from the FCs.

- The number of seats of each FC is allocated according to the proportion of eligible voters of that FC to the total number of eligible voters. The effect of each vote is ideally equal.
- Within each FC, the voting is by a proportional representation system. This system avoids the monopolization of seats by large sectors and encourages the formation of groups and tickets across different subsectors, favouring with a political platform that can harmonize the different interests.
- The proposed new FCs in the Legislative Council is depicted in Table 2. In the appendix, Tables A.1 to A.6 lists the detail distribution of voters in each of the six FCs.

Table 2: Proposals of the New Comprehensive “FCs” in the Legislative Council

Proposed Comprehensive FCs	# of persons (QRHS, 2007Q4)	Percentage of Total	Seats of Total	Note 1
One: Manufacturing & Trade (Table A.1)	1,090,000	18.6%	6	
Two: Infrastructure, Logistics and Tourism (Table A.2)	930,000	15.9%	5	
Three: Business and Professional Services (Table A.3)	716,199	12.2%	4	Note 2
Four: Community, Social and Personal Services (Table A.4) Heung Yee Kuk & District Council (as in 2004 LC election)	927,100 593	15.9%	4	Note 3
Sub-total (excluding District Council and Heung Yee Kuk)	3,663,299			
Five: Full-time Adult Students and Retired Persons (Table A.5)	1,212,835	20.7%	6	
Six: Homemakers and Economically-Inactive Persons Previously Not included in any FCs (Table A.6)	976,200	16.7%	5	
Sub-total	2,189,035			
Total (excluding District Council and Heung Yee Kuk)	5,852,334	100.0%	30	

Note 1 (QRHS, 2007Q4) # of Persons Engaged as in the “Quarterly Report on the Household Survey”

Note 2 Includes Civil Servants of 153,899 as appeared in QREVS, Dec 2007

Note 3 # of electors of HYK and DC in 2004 LC election

Recommendations to Chief Executive Election in 2012

1. The NPCSC has acknowledged that the Chief Executive will be elected by universal suffrage in 2017.
2. A Nomination Committee should in principle be formed in a democratic manner so as to represent the public in the broadest possible way.
3. The current formation of the Election Committee is 800 members according to the following distribution:

1. Industrial, commercial and financial sectors	200
2. The professions	200
3. Labour, social services, religious and other sectors	200
4. LegCo members	200
DC representatives	
HK Deputies to NPC	
Representatives of HK members of National Committee of the Chinese People's Political Consultative Conference	

We propose to keep the number of Nomination Committees to 800. The 200 members from fourth category (Legislative Council members, District Council representatives, Hong Kong Deputies to NPC, Representatives of HK members of National Committee of the Chinese People's Political Consultative Conference) remain unchanged. The 600 members from various business, industrial and professional categories (first, second and third categories) are to be elected using the same concept of Comprehensive FCs. The number of Nomination Committee members in each Comprehensive FC is by proportion of their eligible voters to the total number of eligible voters. To manage the large number of Nomination Committee member seats of each Comprehensive FC, the election can be broken down to sub-FCs with maximum number of elected members around 40. Table 3 below shows a sample categorization with the breakdown sub-sectors for the first two comprehensive FC sketched as example. The principle of every vote having equal effect still holds in the election of the 600 Nomination Committee members.

Table 3: Formation of Election Committee for CE Election via Comprehensive FC

Proposed Constituencies	# of voters	Percentage of FC voters	# of Seats	# of Sub-FCs (Seats in Sub-FCs)
One: Manufacturing & Trade	1,090,000	18.6%	112	3 (37/37/ 38)
Two: Infrastructure, Logistics and Tourism	930,000	15.9%	95	3 (31/32/32)
Three: Business and Professional Services	716,199	12.2%	74	2 (37/37)
Four: Community, Social and Personal Services	927,100	15.8%	95	3 (31/32/32)
Five: Full-time Adult Students and Retired Persons	1,212,835	20.7%	124	4 (31/31/31/31)
Six: Homemakers and Economically-Inactive Persons	976,200	16.7%	100	3 (33/33/34)
Previously Not included in any Fcs				
SubTotal	5,852,334	100.0%	600	18

4. The nomination threshold for an eligible Chief Executive candidate should be no more stringent than the present arrangement. We propose that each nomination requires the support of minimum 50 and maximum 100 Nomination Committee members. The minimum number is to provide a proper threshold which should be sufficient to avoid too many unqualified candidates from jamming into the election, but not high enough to disallow capable candidate to come to the competition. The minimum number should never be higher than the current number. The maximum number of nominators is to prevent any individual dominant candidate from monopolising
5. Pre-election or pre-filtering of “excessive candidates” after the nomination poses threats to etch into the rights of the citizens to vote for their favourable candidates. The existence of nomination thresholds and guarantee deposits are sufficient to limit the maximum number of candidates in the Chief Executive election.
6. Some suggested that additional hurdles should be introduced in the nomination procedure, by requiring the minimum number of nominators from each of a number of sectors. We regard this requirement unreasonable and would deplete the right of candidates to stand for election. In other elections in Hong Kong like the Legislative Council and District Council , there is no such additional requirement in nomination. The decisive factor in any nomination should be to enable as many plausible candidates as possible to convince the voters in his/her platform to work for the interests of Hong Kong as whole. The choice should be left to the voters who will cast their votes.

The Consultative Member System to Legislative Council

1. The supporters of the FC system state that FC has the advantages of incorporating expertise and views from various professions and businesses in the legislative process. They think that it will introduce more rational thinking and enhance the quality of the decisions.
2. However, the development of FCs in Hong Kong has proved that FCs has many disadvantages. Firstly, the narrow representation has introduced small circle groups which are concerned with their vested interests and they are reluctant to any changes towards a more open political system. Secondly, the sector based election made the candidates and voters more focused on the narrow interests of the sector rather than the overall benefits of Hong Kong. It has adversely impacted on the healthy development of party politics to integrate cross-sectoral interests and reduce conflicts.
3. In Hong Kong, a consultative system was established to gauge the feedback of the professionals and businesses in the government policy formulation. This system has a very long history and still exists after 1997. When compared with the current FC system, this system has much less adverse effect. The members of the consultative committee are from professionals and businesses. They can voice their opinions from time to time but they are not given the power to make decisions. The consultative system retains the contributory inputs from businesses and professionals while insulating the vested interests from contaminating the legislative process. In the bills committee stage of the legislative procedure, members from the public were invited to submit opinions and attend the hearings. In many cases, representatives from businesses, professionals and interest groups make use of the opportunities to give their comments in the hearings of the bills committees.
4. We propose a consultative member system to the Legislative Council. The consultative member system is to formalise the current system of expert hearings in the bills committee stages of Legislative Council. The consultative member system is more a standing arrangement than ad-hoc one to give a clear responsibilities to such consultative members, as well as providing them with some resources (e.g. information, and shared office) to the members support their role.
5. The current FCs can maintain their seats in the new consultative member system of Legislative Council when the new comprehensive FC is established in 2012. These consultative members have same term as Legislative Council members.
6. The consultative members can give opinions in the Legislative Council bills committee

meetings. Unlike the Legislative Council members, they are not given any voting power and cannot attend Legislative Council meeting and panel meetings, and they are not entitled to special privileges of the members of Legislative Council like access to some confidential information.

7. The Government policy making has to progress with the social development. Nowadays, the civic society has been demanding for more public engagement by the Government and the Professional Commons submit to this approach. The consultative member system to the Legislative Council that we propose should not block the Government from taking an active role to involve the public and civic groups in the formulation of policies.

Conclusion

As a group of professionals, most of us in the Professional Commons are currently in the privileged position of being able to vote for Election Committee candidates, as well as having our own FC members within the Legislative Council. However, we do not regard our privileged position is justified to be maintained by depriving the interests of the others. We call for an open, fair system that can make Hong Kong more competitive, harmonious and a place good to live. One vital step is the reform of the 2012 election system to progress towards universal suffrage.

The Professional Commons welcomes any comments and criticisms and we are open to discuss other proposals to 2012 political reforms. We urge the public to voice out how they like the political system be reformed in 2012 as an intermediate stage towards universal suffrage which is the target they had expressed clearly in the Green Paper consultation in 2007.

Appendix

Table A.1 **Proposed Constituency One: Manufacturing & Trade**

Proposed Comprehensive FC	Current FCs (1997-Present)	# of persons (QRHS, 2007Q4)	
Textiles and Garments	Textiles and Garments	45,500	Note 1
Manufacturing	<i>Split into Different FCs</i>	158,900	
Import and Export	Import and Export	544,100	
Wholesale and Retail	Wholesale and Retail	341,500	
Total		1,090,000	

Note 1

Include footwear

Table A.2 **Proposed Constituency Two: Infrastructure, Logistics and Tourism**

Proposed Comprehensive FC	Current FCs (1997-Present)	# of persons (QRHS, 2007Q4)	
Hotel and Catering		261,600	
	Tourism	N/A	
	Catering	N/A	
Primary Production, Power and Construction	Agriculture and Fisheries	N/A	Note 1
	Construction	283,100	
	<i>Electricity and Gas</i>	N/A	
	Mining and Other Related Sectors	N/A	
Transport and Communication	Transport	385,300	Note 2
Total		930,000	

Note 1

Including foundation and superstructure; and decoration and maintenance.

Note 2

Including figures for the communications sector.

Table A.3 **Proposed Constituency Three: Business and Professional Services**

Proposed Comprehensive FC	Current FCs (1997-Present)	# of persons (QRHS, 2007Q4)
Financing, Insurance, Real Estate and Business Services		562,300
	Architectural, Surveying and Planning	N/A
	Accounting	N/A
	Business Services	236,100
	Engineering	N/A
	Finance	N/A
	Financial Services	N/A
	Information Technology	N/A
	Insurance	43,000
	Legal	N/A
	Real Estate and Construction	129,900
	Rental of Machinery and Equipment	N/A
	<i>Civil Servants</i>	153,899
Total		716,199

Note 1

Real estate only.

Note 2

This figure is from the QREVS (Dec 2007)

Table A.4 **Proposed Constituency Four: Community, Social and Personal services**

Proposed Comprehensive FC	Current FCs (1997-Present)	# of persons (QRHS, 2007Q4)	# of electors (2004 LC election)
Community, Social and Personal Services	Business Associations	N/A	Note 1
	Education	N/A	
	Laundry, dry cleaning and garment services	N/A	
	Medical and Health Services	N/A	
	Miscellaneous Personal Services	N/A	
	Repair services	N/A	
	Sanitary and Similar Services	N/A	
	Social Services	78,000	
	Sports, Performing Arts, Culture and Publication	N/A	
	Research and scientific institutes, Libraries, museums and cultural services, Miscellaneous amusement and recreational services	N/A	
Total excluding HYC & DC		927,100	Note 3
	Heung Yee Kuk		
	District Council		
Total including HYC & DC		927,693	

Note 1

Staff of these associations not eligible to vote in the current FCs.

Note 2

Two FCs in LegCo: Medical and Health Services.

Note 3

Most of the sub-categories in the Quarterly Report on Household Survey did not fall a direct comparison with

Table A.5 **Proposed Constituency Six: Full-time Students and Retired Persons**

	# of persons (QRHS, 2007Q4)
Local Full-time Adult Students (see Table A.7)	280,035
Retired Persons	932,800
Total	1,212,835

Table A.6 **Proposed Constituency Five: Homemakers and Economically-Inactive Persons Previously Not included in any FC**

	# of persons (QRHS, 2007Q4)
<i>Persons engaged in household duties</i>	667,600
Permanent Sick/Disablement	64,900
Unemployed	112,000
Other Economically Inactive Persons	131,700
Total Number of Economically-Inactive Persons (Excluding Retired Persons)	976,200

Table A.7 **Number of Local Full-time Adult Students (2006/07 academic year figures)**

Note 1

(Source: <http://www.ugc.edu.hk/eng/ugc/publication/report/figure2006/figures/03.pdf>;
<http://www.ugc.edu.hk/eng/doc/ugc/stat/nlft1.pdf>; Hong Kong Annual Digest of Statistics, 2007
edition, pp. 271-272.)

Categories	# of persons
UGC funded full-time local student enrollments	77,631
Students aged 18 or above and still attending secondary school	45,666
Students of approved post secondary colleges	1,381
Hong Kong Shue Yan University	3,355
Hong Kong Academy of Performing Arts	741
Open University of Hong Kong	2,201
Vocational Training Council	41,926
Construction Industry Training Authority	555
Hospital Authority	411
Prince Philip Dental Hospital	80
"Project Yi Jin"	6,462
Adult education/vocational courses	99,626
Total	280,035

Note 2

Note 1 Including non-local students and those under 18

Note 2 Excluding the non-local students studying in UGC-funded programmes, but include the non-local students studying in non UGC-funded programme, and those under 18.

公共專業聯盟對 2012 年政改方案的建議

1. 人大常委會去年決定香港可以在 2017 年普選特首，及最早在 2020 年普選立法會，而策略發展委員會的政制發展專題小組現正討論 2012 行政長官和立法會選舉的具體安排。有見及此，公共專業聯盟提出有關 2012 年行政長官及立法會選舉辦法的過渡方案，俾能早日實現最大程度的民主，更希望社會各界透過討論比較，凝聚共識，為早日實現雙普選創造條件，好讓特區政府知所遵循，以民意為依歸。

審視政治改革方案的標準

2. 政制發展爭論困擾香港多時，各方拋出的政制改革方案更叫人眼花繚亂，再加上民主化步伐進展緩慢，使不少市民對政改問題感到厭倦，甚至採取漠視不理的態度。為此，我們構思了一套簡約的評審標準，俾能化繁為簡，幫助市民辨清及掌握朝向民主化政改的要義所在，以免被一些指鹿為馬的方案所蒙蔽。我們認為，無論是導引香港朝向民主雙普選的終極政改方案，或是 2012 年的過渡性選舉安排，均須符合以下指標：

- 一. 立法會及行政長官選舉的選民基礎應遠高於目前的數字；
- 二. 政制發展應朝向每名選民擁有相同數目選票的方向發展，而且每張選票的重要性是相同的；
- 三. 功能組別改革應有助淡化界別利益色彩，及有助達致全面廢除功能組別的目標；
- 四. 有關改革須有助推動公開競爭、鼓勵政黨發展，及杜絕任何功能組別候選人得以自動當選的可能性；
- 五. 經改革後的功能組別選舉，應有助整合不同政治、經濟、階級以至種族的利益；
- 六. 特首選舉方面，參選人提名機制應確保有多名具備條件的人可以參與角逐，提名人數門檻要設有最低和最高人數限額；具體來說，就是不希望再出現 2002 年董建華獨攬大部份提名票並自動當選的情況，及希望日後的選舉都能出類似 2007 年的特首選舉那樣最少有兩人同台競逐的局面；
- 七. 特首選舉制度應朝向完全反映選民選擇意願的方向發展，不容許滲入任何附加機制(包括提名委員)以過濾和篩選候選人名單；
- 八. 有關改革應符合基本法及人大常委會對於香港行政長官和立法會具體產生辦法的決定。

就 2012 年立法會選舉辦法的建議

3. 根據《基本法》第 68 條規定，功能組別最終難逃全面廢除的命運。故此，2012 年的功能組別選舉須做好過渡安排。2007 年功能組別選舉的選民數字為 212,825 人¹，僅為全港地方選區選舉合資格選民的 3.7%。再者，過半的功能組別是由公司票主導²；在這些公司票主導的功能組別中，其選民人數祇佔該功能組別所屬行業就業人數的 1.4%或以下³。功能組別代表性不足、偏重公司擁有者、鼓吹狹隘利益、不符合《公民及政治權利國際公約》中的一人一票及每票等值的精神，都是對功能組別選舉耳熟能詳的描述。

4. 我們提出的 2012 年立法會選舉方案可以達致以下目標：

- 擴大功能組別的選民基礎，取締公司票；
- 所有合資格的香港選民均可參與地方選區和功能組別選舉，我們稱之為「一人兩票」制；
- 現有的功能組別應合併成為數個大功能組別。在新的選舉制度下，個別界別的候選人若無法取得其他界別選民的支持，將無法在選舉中勝出。這將有助降低功能組別只顧維護小圈子既得利益的惡劣影響，及矯正個別規模較小的功能組別內利益輸送的情況。新安排還有助整合不同界別的利益，為將來的全面普選鋪路；
- 每個合資格的選民都會隸屬一個功能組別，為此需要設立新的功能組別以容納現時不隸屬任何功能界別的選民；
- 每個功能組別獲分配的立法會議席將根據組別內合資格選民的數目而定，打破現時個別界別享有優越地位的局面。

5. 我們建議改革現有的功能組別制度，由一個名為「全面功能組別」的制度取代。根據有關建議的構思，現時的功能組別將會整合成 6 個大型功能組別，選民基礎是個人選民；其他具體建議如下：

- 設立 4 個大型功能組別以取代現時按經濟職能劃分的功能組別。這 4 個功能組別的選民人數約為 370 萬人。
- 另設兩個新的功能組別，以容納那些原來不屬於任何經濟界別、專業團體或工會的人士。其一是“成年學生和退休人士”組別，其二是“家務工作者，和其他以往沒有納入至任何功能組別的非經濟活

¹ 2007 年功能界別選民登記數字

² 選舉管理委員會：《2004 年立法會選舉功能界別選民的分項數字》

³ 政府統計處：《就業及空缺按季統計報告》2007 年 12 月所得的就業人數。

躍者”。這兩個組別大概有 200 萬名選民；

- 這 6 大功能組別會把選民基礎擴大至 570 萬人，與現時地方選區選舉的選民基礎相若；
- 立法會功能組別席位的數目可維持在 30 人，我們也不反對把議席數目增加至 35 人，但立法會地方選區議席應該與功能組別的議席數目保持一致；
- 6 個大功能組別議席的分配辦法如下：先計算個別組別選民佔合資格選民總數的比例，然後按照比例多寡分配議席。這樣，每張選票的重要性基本上是相同的；
- 新功能組選舉辦法安排，須防止個別人數眾多的功能組別壟斷所有席位，也有助鼓勵不同界別合組參選名單，並透過擬定共同政綱調和不同界別的利益；
- 有關立法會功能組別及議席分配的新方案，請參看附表一。

附表一

建議中的功能組別界別	合資格選民人數	立法會議席	
一：製造業和貿易業	1,090,000	6	18.6%
二： 基建、物流和旅遊業	930,000	5	15.9%
三：商業與專業服務業	716,199	4	12.2%
四：個人社會和社區服務業、鄉議局和區議會	927,100	4	15.9%
	593 ⁴		
小計	3,663,299⁵		
五：成年學生和退休人士	1,212,835	6	20.7%
六：家務工作者和以往未列入任何功能組別的非經濟活躍者	976,200	5	16.7%
小計	2,189,035		
總計	5,852,334	30	100.0%

⁴ 2004 年立法會選舉中鄉議局和區議會的選民人數；不計入第四功能組別，避免重覆計算。

⁵ 政府統計處：《綜合住戶統計調查按季統計報告》，2007 年第 4 季的就業人數。

就 2012 年特首選舉辦法的建議

6. 全國人大常委會已明確表示香港可以在 2017 年普選行政長官。
7. 行政長官選舉提名委員會應按民主原則組成，俾能在最大程度上反映民意。
8. 按照現時的規定，選舉委員會由 800 人組成，其分佈如下：

1.	工商、金融界	200 人
2.	專業界	200 人
3.	勞工、社會服務、宗教等界	200 人
4.	立法會議員、區議員、全國人大港區委員、全國政協港區委員代表	200 人

我們建議維持提名委員會的人數在 800 人的水平，其中屬於第四界別的 200 人（立法會議員、區議會代表、全國人大港區委員、全國政協委員港區代表）的產生辦法維持不變。

9. 其他界別（第一、二及三界別）的 600 名提名委員則採用全面功能組別類似的產生辦法。每個新功能組別提名委員的數目按該組別選民佔全港合資格選民數目的比例分配。這樣，每票等值的原則同樣可以體現於 600 人的提名委員會的選舉。此外，每個功能組別的選舉可分拆為若干分組進行，每個分組的提名委員席位不多於 40 席。各新功能組別佔提名委員名額的分配方案，請參看附表二。

附表二

建議中的功能組別界別	合資格選民人數	提名委員名額	
一：製造業和貿易業	1,090,000	112	18.6%
二：基建、物流和旅遊業	930,000	95	15.9%
三：商業與專業服務業	716,199	74	12.2%
四：個人社會和社區服務業、鄉議局和區議會	927,100	95	15.9%
	593 ⁶		
小計	3,663,299⁷		
五：成年學生和退休人士	1,212,835	124	20.7%
六：家務工作者和以往未列入任何功能組別的非經濟活躍者	976,200	100	16.7%
小計	2,189,035		
總計	5,852,334	600	100.0%

10. 特首候選人的提名門檻不應較現時的安排苛刻，人數的最低門檻不多於現時的標準(即 100 人)。設立最低提名票數的門檻旨在避免產生過多不具備條件的參選者阻礙選舉的順利進行，同時，門檻也不應過高，以免排拒有能力的候選人參與競選。我們建議：每個候選人只需獲得最少 50 名提名委員的支持，提名票的最高上限則為 100 人；設定最高提名人數的目的，是避免個別強勢候選人壟斷了提名程序，致使後來的選舉實際上沒有其他候選人。

11. 有人提議，在提名程序後加設機制去「預選」或「篩選」所謂「過多的候選人」。我們認為，這個做法會剝奪市民投票選出理想候選人的權利。現時設定提名人數門檻及保證金制度的安排，相信已足以限制特首選舉參選最高人數。

12. 有些人建議在提名程序中引入額外的規限，包括要求參選人從每個界別取得若干提名票數。我們認為有關限制並不合理，因為會剝奪部份參選人的參選權利，更何況本港的其他選舉，例如立法會及區議會選舉，均沒有類似的要求。其實，在考慮整個選舉以至提名制度

⁶ 2004 年立法會選舉中鄉議局和區議會的選民人數；不計入第四功能組別，避免重覆計算。

⁷ 政府統計處：《綜合住戶統計調查按季統計報告》，2007 年第 1 季所得的就業人數。

時，至關重要的是如何確保最多具備條件的人有機會參選，讓他們透過政綱向選民展示他們怎樣為香港的整體利益奮鬥；至於怎樣選擇參選人，還是留給選民透過選票自由選擇吧！

設立立法會的政協制度

13. 功能組別制度的支持者認為，功能組別的存在可以讓專業界別和商界人士在立法過程中更有效地貢獻他們的專業知識和識見，這有助促進理性思維和提高決策質素。

14. 事實上，功能組別對香港的發展經已造成了不少負面影響。首先，狹隘的代表性形成小圈子利益集團，他們只顧維護一己私利，抗拒接受更開放的政治制度。其次，以界別為基礎的選舉導致無論候選人和選民都著眼於界別利益，而置全港整體利益於不顧。功能組別制度嚴重窒礙政黨政治的健康發展，更妨礙政黨發揮整合跨界別利益及消融矛盾方面的作用。

15. 目前政府的決策過程中，有一套諮詢機制吸納專業人士和商界人士的意見。這種諮詢機制若干程度上優於功能組別制度，原因是參與諮詢工作的人士不會獲得任何實權及利益。倘如政府或社會人士認為有需要保留現時把專業知識和商界意見帶進立法過程的形式，我們認為類似諮詢制度的形式比較適合。

16. 故此，我們建議在立法會設立政協制度，把現時法案委員會階段邀請專家發表意見的做法予以正規化和制度化。政協制度將會是立法會常設體制的組成部份，政協委員被賦予明確的諮詢職責，並獲提供配套資源，例如相關的資訊和辦公室支援等，俾使他們能充份發揮他們的角色。

17. 現時的功能組別可以在 2012 年實施全面功能組別制度時，可以透過立法會政協委員的方式繼續服務社會。立法會政協委員可以在立法會法案事務委員會發言，任期與立法會議員相同，但和其他立法會議員不同的是，他們沒有投票權，也不能出席立法會大會和事務委員會的會議，也不能擁有立法會議員的特權（如獲得機密資料等）。

公共專業聯盟

2008 年 5 月 4 日

策發會政制發展專題小組

主席：

首先，我想感謝政制發展專題小組給我機會在此代表匯賢智庫向各位小組成員闡述我們對 2012 年行政長官同立法會選舉辦法的一些看法。

在我具體講述這些選舉辦法之前，請讓我先清楚講明匯賢智庫的基本立場，就是我們希望香港可以在《基本法》的框架內，不斷發展一個優質的民主政制，早日落實雙普選。之前我們講過，如果社會有共識的話，我們支持於 2012 年普選行政長官與及全體立法會議員。不過，在 2007 年 12 月，全國人大常委會已經明確地決定了香港達至普選的時間表，而我們認為，總的來說，香港市民是接受人大常委會的決定，故此，我們亦都尊重這個決定內的時間表。而人大常委會開了綠燈後，落實雙普選的責任就落到香港身上，所以我們真的希望在未來的一段日子，特區政府、立法會和社會各界可以積極凝聚共識，求同存異，謀求制定出一套切實可行、中央政府和香港不同界別都能夠接受的普選方案，真真正正在 2017 年由全港市民普選行政長官，與及在 2020 年普選全體立法會議員。

對於 2012 年行政長官的選舉辦法，我們的意見是既然他/她不能夠在那一年由普選產生，就應該根據《基本法》附件一的規定，由一個有廣泛代表性的選舉委員會選出，再由中央政府任命。至於 2012 年的選舉委員會：

- 我們建議由現時的 800 人，增加至 1,800 人，以讓更多社會人士參與，和加強選舉委員會的認受性，體現循序漸進的原則；
- 而在均衡參與的原則下，我們建議保留現時選委會的四個界別；
- 至於各個組別的委員人數分佈方面，我們建議第一至第三界別的委員人數將按現有的分配方式增加一倍，即是說：工商、金融界，專業界，勞工、社會服務、宗教等界都分別由 200 人增加至 400 人；
- 至於第四界別，我們建議除了包括現時已經是成員的全體立法會議員、全數港區全國人大代表、港區全國政協委員代表、同鄉議局代表之外，還加入全數民選區議會議員，令此界別人數由現時的 200 人增加至 600 人；

- 我們希望透過納入全數民選區議員，選舉委員會的選民基礎將會由現時的 20 多萬，大幅擴展至超過 300 萬人，增強選舉委員會的代表性；
- 以此形式組成的選委會，大家可以考慮將它過渡成為 2017 年的提名委員會，方便兩個選舉辦法的銜接；
- 關於提名方式和有意參選人士取得候選人資格方面，我們建議把提名門檻由現時的 12.5% 降低至 10%。為了兼顧社會各界的利益，確保我們的行政長官都要聆聽不同的聲音和積極回應各界的訴求，我們認為每名候選人都應該同時在每個界別中獲得最少 10% 的委員提名；
- 此外，每名候選人的提名上限為 450 名，務求令選舉在有競爭的情況下舉行；
- 最後，獲得足夠提名的人士將正式成為候選人，由選委會成員在簡單多數的原則下，一人一票選出行政長官。如果提名期結束時只有一名候選人獲足夠提名，該名候選人將自動當選成為行政長官。

以上是我們對於 2012 年行政長官選舉辦法的意見，我會在餘下的時間講述匯賢智庫對立法會選舉辦法的看法。我們一直都建議普選全體立法會議員的時候(現在看來應該是 2020 年)，全面取消功能組別，改為實行一人兩票的制度。在此制度下，每名選民均有兩票，一票為比例代表制下的分區直選票，另一票是以全香港作為單一選區的名單比例代表制選票。我們相信這個在世界多個國家和地區都有採用的混合形式選舉制度，不單只公平和符合民主精神，更加能夠體現「兼顧社會各階層利益」及「有利於資本主義經濟的發展」兩項原則，因為它一方面可以讓市民投票選擇他們認為最關顧地區事務和他們切身利益的人士，另一方面又可以鼓勵擁有專業才能、跨地域經驗和廣泛支持的社會精英參選立法會。

就是在這個背景之下，我們對 2012 年的立法會選舉辦法有下列的建議：

- 首先，為了進一步加強立法會的代表性，配合立法會實際工作需要，與及給予更多社會人士參政機會，培養政治人才，我們建議把議席由現時的 60 個增加至 80 個；
- 基於人大常委會的決定，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，故此新增的 20 個議席中，10 個將會撥入地區議席，按人口比例分配，另外 10 個則撥入功能組別議席；

- 至於如何決定新增的功能組別屬於哪個界別，我們認為可以考慮以下幾個原則：
 - 為了提高功能組別選舉的認受性和代表性，應該擴大功能界別的選民基礎和範圍；
 - 而擴大有關的選民基礎和範圍時，應該考慮給予更多選民直接參與功能界別投票的機會，以進一步提升一人兩票這個模式的廣泛程度；
- 因此，我們認為 2012 年立法會選舉應該將新增的功能界別議席，擴大至現時在立法會未有代表的界別。不過，我想在此指出一點，就是功能界別這個概念，一向是以職業性質劃分的。如果我們加入一些以職業性質以外條件來勾劃出來的界別，然後再稱這些新的界別為功能界別，就似乎違反了人大常委會就 2012 年立法會選舉所作出的決定的原意。
- 因此，我們在此建議考慮加入以下 3 個以職業性質勾劃出來、但現時未有立法會代表的新界別：
 - 第一，公務員：現時香港約有 16 萬公務員，是本港勞動人口的一個重要組成部份，對香港的整體運作和發展不可或缺，我們認為值得在立法會內有公務員的代表；
 - 第二，中小企：現時香港有超過 26 萬間的中小企，超過 98% 的本地公司都是中小企，聘用了超過 120 萬的勞動人口，即是撇除公務員以外的一半勞動人口，對本港經濟的貢獻無可置疑；
 - 第三，安老服務業：本港現時有超過 500 間私營的安老服務中心，單是它們已經聘用了超過 14,000 人。

我們瞭解到其實任何功能界別的改動，都會引起爭議，亦沒有一個方案可以做到十全十美，令每一個人都完全滿意，所以，我們對社會各界提出增加上述 3 個功能界別以外的新組別，理順部份功能界別的組成或選民資格等等方案持開放態度，我們希望市民在未來的諮詢過程中能夠就此多加討論，讓我們知道更多他們的想法。

我今日的分享到此為止，多謝主席。

陳岳鵬

二零零八年五月二十九日