

政制及內地事務局局長
政府總部

香港下亞厘畢道



SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS
GOVERNMENT SECRETARIAT
LOWER ALBERT ROAD
HONG KONG

21 June 2010

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

Dear Chairman,


I enclose for your reference the statements made by the Chief Executive and the Secretary for Justice regarding the Administration's decision to implement, by local legislation, the following arrangements for the 2012 Legislative Council election:

- (i) candidates for the five new functional constituency seats will be nominated by elected District Council members. They will be elected by all registered voters who currently do not have a right to vote in functional constituencies, on a one-person-one-vote basis; and
- (ii) the original District Council functional constituency seat will be returned through election from among elected District Council members.

The Executive Council has given its approval-in-principle to the above arrangements.

Subject to the passage of the motion concerning the Amendment to the Method for the Selection of the Chief Executive and the motion concerning the Amendment to the Method for the Formation of the Legislative Council and its Voting Procedures, the details for implementing the above arrangements will be taken forward by local legislation. In this regard, we propose that there should be a general

discussion at the meeting of the Constitutional Affairs Panel on 19 July, so that we can listen to the views of Members and facilitate our work in formulating the legislative proposals for amending the Chief Executive (Election) Ordinance and the Legislative Council Ordinance during the summer. Thereafter, we will consult the Panel on our legislative proposals after LegCo has resumed business in the autumn.

Yours sincerely,


(Stephen Lam)

Secretary for Constitutional and Mainland Affairs

**CE's opening remarks at press conference on
constitutional reform package**

Following are the opening remarks by the Chief Executive, Mr Donald Tsang, at the press conference on the constitutional reform package at the Central Government Offices New Annexe today (June 21):

This morning, we put forward to the Executive Council the Democratic Party's proposal on "one-person-two-votes" for returning the five new functional constituency seats in 2012. We shall implement this proposal by local legislation. The Executive Council has given its approval-in-principle.

This has once again demonstrated our resolve and commitment to promoting democratic development in Hong Kong.

We believe that the Democratic Party's proposal complies with the Basic Law and the 2007 decision of the Standing Committee of the National People's Congress. It will also help forge a community consensus towards universal suffrage. The sincerity and commitment of the Democratic Party deserve full support and recognition from members of the LegCo and the public.

Over the past few days I have met various political groups including DAB, FTU, Economic Synergy, Liberal Party and Professional Forum, as well as some other LegCo members, and listened to their views.

They had already pledged support for the Government's original package to advance democracy in Hong Kong. They are now willing to put aside their reservations and have indicated their support for the revised package. They are doing it for the overall interest of Hong Kong, in sharing the common goal of achieving universal suffrage.

I truly appreciate their altruism, enthusiasm, and hard work.

Such sincerity and perseverance in rational dialogue and accommodation of different opinions are essential for Hong Kong's constitutional development and social progress.

Various opinion polls have pointed to the fact that members of the public want our constitutional system to move forward in 2012. The political reality is that our original package falls short of a few votes to meet the 40-vote threshold for its passage in LegCo.

But we did not give up. We have talked to different political parties and groups. We have gone direct to the community to enlist their support. I am very happy that we have made a major breakthrough.

Once the motions on the amendments to the annexes of the Basic Law are passed, we shall pursue the following electoral arrangements through local legislation:

First, candidates for the five new functional constituency seats will be nominated by elected District Council members. They will be elected by all registered voters who currently do not have a right to vote in functional constituencies, on a one-person-one-vote basis.

Second, the original District Council functional constituency seat will be returned through election from among elected DC members.

In other words, under this proposal, every voter will have two votes in the 2012 LegCo elections, one for geographical constituencies, and the other for functional constituencies.

We believe this proposal will make our election more democratic and will pave the way for universal suffrage.

We believe this revised proposal complies with the decision of the National People's Congress Standing Committee in 2007. The Secretary for Justice will explain this in detail later.

As regards the specific electoral arrangements for the five new functional constituency seats, we will consult various parties and groups in LegCo and put forward proposals for local legislation after LegCo resumes business in the autumn.

The guiding principle is that such electoral arrangements must be fair and reasonable, ensuring a competitive election in which different political parties and groups may participate.

As for the District Council appointment system, we shall put forth proposals for its abolition. In this regard, we will consult LegCo and the public following the passage of the motions by LegCo.

After two decades of protracted arguments over constitutional reform, some rapid and encouraging changes have taken place over the past few months.

The Central Authorities have made two public statements to clear the doubts of some members of the public about the timetable and definition of universal suffrage.

Meanwhile, the Democratic Party has taken a rational stance in the discussion on constitutional reform within the parameters of the Basic Law and the 2007 decision of the Standing Committee. They have also sought the opportunity to meet and discuss constitutional reform with the Central Government's Offices. The Hong Kong Government has taken the initiative in making this meeting possible.

Today, two days before the vote, we have decided to take on board the "one-person-two-votes" proposal. Many LegCo members have accepted this

proposal because they believe it is in the best interest of community.

It all goes to show how crucial it is for us to work together, if we are to make real progress in advancing democracy in Hong Kong.

The Legislative Council will vote on the motions later this week. I appeal to all LegCo members to vote for the motions. This will make history for Hong Kong. This will pave the way for universal suffrage in 2017 and 2020.

Thank you very much.

Ends/Monday, June 21, 2010

Speech by SJ at press conference on constitutional reform package

Following is the speech by the Secretary for Justice, Mr Wong Yan Lung, SC, on the new District Council Functional Constituency Election Method at the press conference on the constitutional reform package at Central Government Offices New Annexe today (June 21):

I will now further explain why, after giving the matter in-depth consideration, the Government takes the view that the new District Council Functional Constituency Election Method for the additional five seats (the new DCFC election method), i.e. the so-called adjusted method mentioned by the Chief Executive just now, is consistent with the Basic Law and the decision of the Standing Committee of the National People's Congress (NPCSC) in 2007.

NPCSC Decision in 2007

According to the NPCSC Decision in 2007, for the 2012 Legislative Council elections, the half-and-half ratio between members returned by functional constituencies and members returned by geographical constituencies through direct elections shall remain unchanged. However, subject to this and other conditions, appropriate amendments conforming to the principle of gradual and orderly progress may be made to the specific method for forming the fifth term Legislative Council of the Hong Kong Special Administrative Region in the year 2012 in accordance with the provisions of Article 68 and Article III of Annex II to the Basic Law.

The NPCSC Decision of 2007 did not prescribe any method as to how the functional constituency seats should be returned. Therefore the details relating to the specific methods for returning functional constituencies are left to local legislation in accordance with Article 68 and Annex II to the Basic Law.

All along and according to Annex II to the Basic Law, the delimitation of functional sectors, their seat allocation and election methods are matters which can be specified by an electoral law introduced by the Government of the Hong Kong Special Administrative Region and passed by the Legislative Council.

The new DCFC election method

The Chief Executive has just outlined the new DCFC election method. I would like to emphasise what the Government considers to be some salient features:

(1) First, candidates must themselves be elected District Council members.

(2) Second, candidates must be nominated by elected District Council members.

(3) Third, candidates will be elected, through one-person-one-vote, by the registered electors in Hong Kong less those electors who currently have the right to vote in other functional constituencies. (In other words, the electorate base will be about 3.2 million, being the total 3.43 million registered electors less 230,000 electors for the other functional constituencies.)

The new DCFC election is not Geographical Constituency direct elections

Firstly, I would like to point out that the new DCFC election is not direct election. The candidates are limited to elected District Council members nominated by elected District Council members, not any of the Chinese nationals among the 3.43 million registered electors in the geographical constituency electoral registers.

Secondly, the new DCFC election is not geographical constituency direct elections. The new DCFC members are not returned by geographical

constituencies through direct elections. This is because not all the 3.43 million registered electors in the geographical constituency electoral registers are entitled to vote, but the right to vote is confined to the registered electors other than those already entitled to vote in the other functional constituencies.

District Council: a functional constituency

District Council has always been a "functional constituency" for the purpose of the Legislative Council election. For the existing Legislative Council, one out of the 30 functional constituency seats comes from the District Council.

District Council is a functional constituency under section 20(1)(zb) of the Legislative Council Ordinance Cap.542.

The District Council has the functions of giving advice to the Government regarding district administration and promoting district development. A specific function can be readily identified, which is different from the case of members returned by geographical constituency direct elections.

The expansion of the electorate base for the District Council functional constituency members does not alter the functional nature of the District Council.

The five LegCo members returned by this new District Council FC election still represent the District Council

Each of the five LegCo members returned through the new DCFC election method is a Legislative Council member returned by a functional constituency. He or she will still be the representative of the District Council in LegCo.

Further, if one were to further analyse the new DCFC election method by reference to the three aspects

of candidature, nomination and electorate base, that it becomes even clearer that the new DCFC election remains a functional constituency election as opposed to geographical constituency direct election.

Candidature

First of all on candidature, unlike geographical constituency direct elections where any of the Chinese nationals among the registered electors can be nominated as a candidate, the new DCFC candidates must be an elected member of the District Council.

Nomination

Secondly, nomination. Unlike geographical constituency direct elections where any registered elector can be a subscriber to a nomination for a candidate, in the new DCFC election, only elected District Council members can be a subscriber to a nomination for a new DCFC candidate.

Electorate base

Thirdly, electorate base. Unlike geographical constituency direct elections where all registered electors with the geographical constituency electoral registers can vote, in the new DCFC election, only those registered electors who do not have the right to vote in the other functional constituencies can vote.

All can be effected by local legislation

The necessary changes to implement the new DCFC election are matters relating to the delimitation of functional sectors, their seat allocation and election methods, which can be achieved by way of local legislation.

Progress towards universal suffrage

Further, the new DCFC election is consistent with the principle of gradual and orderly progress. The electoral system is not static. We are moving towards the ultimate aim of universal suffrage. Plainly, the enlargement of the electorate base is an important facet of this progress.

The new DCFC election is consistent with the Basic Law and the 2007 NPCSC decision. It provides a useful means to effect gradual and orderly progress towards universal suffrage. I appeal to all LegCo members to support it and to give Hong Kong the opportunity to move forward on constitutional development. Thank you.

Ends/Monday, June 21, 2010