

**Commission on Strategic Development
Task Group on Constitutional Development**

**Summary of discussions on the method
for forming the Legislative Council in 2012**

Introduction

As stated in the paper “Summary of discussions on method for electing the Chief Executive in 2012” (Paper No: CSD/TGCD/5/2008), in the past few months, the Task Group focused its discussion on the two electoral methods for 2012.

2. This paper aims to summarize members’ views on the method for forming the Legislative Council (“LegCo”) in 2012. This will provide a basis for the HKSAR Government to prepare the document for the next round of public consultation.

Method for forming the Legislative Council in 2012

3. At previous meetings and workshop, members discussed the following key issues relating to the electoral method for LegCo in 2012:

- (a) the number of seats in LegCo;
- (b) the delineation of the electorate of functional constituencies (“FCs”); and
- (c) whether the arrangement that 20 percent of LegCo seats may be returned by individuals who are not of Chinese nationality or who have the right of abode in foreign countries should be adjusted.

4. In discussing the method for forming LegCo in 2012, members have taken into account the following factors:

- (a) the provisions of the Decision of the Standing Committee of the National People’s Congress

(“NPCSC”) adopted last December (i.e. the half-and-half ratio between members returned by FCs and members returned by geographical constituencies (“GCs”) through direct elections shall remain unchanged) must be complied with; and

- (b) how to further democratize the electoral method in accordance with the principle of gradual and orderly progress.

5. Members also agreed that, in considering the options of the electoral method for 2012, we should take into account that they should be conducive to attaining universal suffrage in a gradual manner and that they should not limit the room for discussion and further development in future.

Number of seats in LegCo

6. In previous discussions, more members considered that the number of seats of LegCo should be increased in 2012. The major reasons included:

- (a) the workload of LegCo had increased with population growth. Increasing the number of LegCo seats could meet the operational requirements of LegCo;
- (b) broadening the avenues for political participation, which could enable more people of different backgrounds, experiences and stances to participate in politics. This would be conducive to nurturing political talents and development of political parties in the long run;
- (c) the population-to-seat ratio of Hong Kong is relatively higher than those of overseas legislatures; and
- (d) enhancing the function of LegCo in reflecting a full spectrum of public opinions and increasing the democratic elements and public participation.

7. As regards the specific number of seats, more members considered that the number should be increased to 70, with reasons

included that it would be a more prudent approach and, if necessary, consideration could be given to further increasing the number of seats in future in accordance with the principle of gradual and orderly progress and in the light of the actual situation.

8. Some members considered that the number of LegCo seats should be increased to 80, so as to provide more opportunities for nurturing political talents and for promoting political development. However, there were views that increasing 20 seats in one go would be too great a change.

9. However, individual members considered that the number of LegCo seats should remain at 60 seats. The major reason was that, before a final view had been taken on how to deal with the FCs, it would not be appropriate to increase the number of LegCo seats. Otherwise, there would be disputes within the community over issues such as what new FCs should be established and whether the number of seats returned by individual FCs should be increased.

The Delineation of the Electorate of FCs

10. If the number of LegCo seats was to be increased to 70 or 80, in accordance with NPCSC's Decision, the number of seats returned by GCs through direct elections and FCs should each be increased by 5 or 10.

11. Members generally agreed that, in considering the delineation of the electorate of FCs, the key factors that should be taken into account included:

- (a) the representativeness and legitimacy of LegCo could be enhanced;
- (b) the principle of "balanced participation" could be complied with; and
- (c) controversy within the community could be minimized.

12. As regards how the additional FC seats should be dealt with if the number of FC seats was to be increased, members held diverse views. The proposals discussed by members included:

- (a) establishing new FCs;
- (b) increasing the existing number of FC seats allocated to District Councils;
- (c) replacing corporate votes with director's / executive's / association's / individual's vote; and
- (d) reorganising certain existing FCs.

(a) *Establishing new FCs*

13. Some members considered that if the number of FC seats was to be increased, new FCs should be established for sectors which were currently not represented. The reasons included:

- (a) providing more opportunities for different sectors to participate in the work of the LegCo at this stage could help their representatives get prepared for participating in universal suffrage in future;
- (b) it might minimize controversies within the community if the newly created FC seats were to be allocated to different sectors.

14. Members had put forth different specific proposals on the establishment of new FCs, including:

- (a) Home-makers;
- (b) Women;
- (c) Youth;
- (d) Retirees;
- (e) Grassroot and social groups;
- (f) Small and medium enterprises;
- (g) Cultural and creative industries;

- (h) Chinese medicine practitioners and Chinese medicine industry;
- (i) Chinese enterprises;
- (j) Elderly service;
- (k) Civil service;
- (l) Employers' associations.

15. However, some members considered that some of these sectors (e.g. small and medium enterprises, cultural and creative industries) were already included in the existing electorate, and that it would not be necessary to establish new FCs for these sectors.

16. There were also views that reference could be made to the arrangements of the "nine new FCs" in establishing new FC seats, so as to broaden the electorate base significantly.

17. However, some members opposed to the proposal of establishing new FCs because by including new sectors selectively would give rise to controversy within the community and would create more vested interest groups. If FCs were to be abolished eventually when universal suffrage was implemented, the existence of more FCs would only make the issue more complicated.

(ii) Increasing the Existing Number of FC seats allocated to District Councils

18. Some members considered that if the number of FC seats was to be increased, the number of FC seats allocated to District Councils should be increased because:

- (a) given the wider electorate base of District Council members, this could enhance the democratic elements and representativeness of FCs, which would be conducive to Hong Kong's democratic development;
- (b) District Council members performed an important social function. Increasing the number of LegCo seats for District Council members would help nurture

political talents among them and promote the development of political parties;

- (c) the proposal put forth by the Government in 2005 to allow all new FC seats to be returned through elections by District Council members from among themselves was supported by 60% of the public; and
- (d) increasing the number of FC seats allocated to District Councils would in effect reduce the proportion of members of other FCs. This could help forge consensus within LegCo on how the FCs should be dealt with when universal suffrage was implemented.

19. Members generally agreed that District Council representatives in LegCo should be returned through elections by District Council members from among themselves. However, there were views that appointed members should not be allowed to participate in the election.

20. However, some members opposed to increasing the number of FC seats allocated to District Councils. The reasons included:

- (a) if the number of FC seats allocated to the District Councils was to be increased, the electorate base of these FC seats would duplicate with that of the new seats returned by GCs through direct elections, because the nature of District Council election was similar to that of GC, but not FC, election;
- (b) the nature of District Councils was different from that of other FCs as the latter were defined by the nature of occupation and sector. Increasing the number of seats allocated to the District Councils would not be entirely consistent with the principle of “balanced participation”; and
- (c) high calibre District Council members could stand for LegCo direct elections through the GCs. It would not be necessary to allocate more FC seats to District Councils.

(c) *Replacing corporate votes with director's / executive's / association's / individual's votes*

21. Regarding the proposal of replacing corporate votes with director's / executive's / association's / individual's votes, members held diverse views:

- (a) there were views that corporate votes should be replaced with director's/executive's votes and the scope of organizations should be broadened to cover affiliated associations because this could broaden the electorate base of FCs. Consideration could be given to limit the number of director's / executive's votes for each company and the number of votes each director / executive would be entitled to, and to require that each company could only vote in one subsector. This could ensure that the members were representative of the relevant sectors.

However, there were views that replacing corporate votes with director's votes would not serve a useful purpose, as directors were appointed by the companies;

- (b) there were views that individual's votes should be given to trade practitioners and that corporate votes should be replaced with individual's votes, so as to enhance the democratic elements of the election;
- (c) however, there were views that corporate voting was a unique feature of Hong Kong's elections. Replacing corporate votes with director's / individual's votes was not consistent with the original intent of introducing FC elections. Not only would this increase the risk of "vote planting", but also render the relevant FC members less representative. There were also views that such arrangement would be no more than a political gesture, which would not help change the public perception of FC elections; and
- (d) there were views that the need for such arrangement for different sectors should be considered by taking into account the circumstances of individual sectors.

(d) Reorganising certain existing FCs

22. On whether certain existing FCs should be reorganised, members held diverse views.

23. Some members considered that certain existing FCs could be split (e.g. Sports, Performing Arts, Culture and Publication, Real Estate and Construction, and Architectural, Surveying and Planning). However, some members opposed to splitting the existing FCs because, rather than broadening the electorate base of the FCs, the proposal would increase the number of seats returned by certain FCs. This would not be conducive to enhancing public participation.

24. There were views that consideration should be given to merging or reorganizing certain FCs. However, some members opposed to the proposal (e.g. merging the Medical and Health Services FCs) for reasons that it would be unfair to constituencies with a smaller electorate size, and that it would give rise to controversy within the community.

25. Some members considered that splitting or merging FCs would be relatively more complicated and that there would not be sufficient time for the community to discuss the issue thoroughly.

Whether the arrangement that 20 percent of LegCo seats may be returned by individuals who are not of Chinese nationality or who have the right of abode in foreign countries should be adjusted

26. Members held diverse views on whether the arrangement that 20 percent of LegCo seats might be returned by individuals who were not of Chinese nationality or who had the right of abode in foreign countries should be adjusted.

27. Some members considered that the current arrangement should be maintained. The reasons included:

- (a) this was a special arrangement under “One Country, Two Systems” to allow LegCo to attract different talents, which reflected Hong Kong’s inclusive and pluralistic culture;
- (b) this arrangement had been working smoothly. As the wave of emigration had already passed and in practice,

there were only very few LegCo Members who were not of Chinese nationality or who had the right of abode in foreign countries, there was no imminent need to change the arrangement.

On the contrary, making changes to the existing arrangement might give the international community a false impression that Hong Kong rejected people who were not of Chinese nationality. Hence, the existing arrangement should be maintained at the present stage and could be reviewed in the context of reviewing the future of FCs; and

- (c) the arrangement should continue to be applicable to only FC seats.

28. However, there were also members who considered that the concerned percentage should be gradually reduced or the arrangement should be abolished in the long run. The reasons included:

- (a) this was only a transitional arrangement. The relevant percentage should be reduced in phases and the arrangement should be abolished in the long run (particularly when universal suffrage had been implemented); and
- (b) such an arrangement was not common among overseas legislatures.

29. Generally speaking, members considered that there was no imminent need for changing the relevant arrangement.

Conclusion

30. To conclude, members' previous discussions on the method for forming the LegCo in 2012 are summarized below.

Number of seats in LegCo

- (a) More members considered that the number of seats of LegCo should be increased. More members considered

that the number should be increased to 70 seats, while some considered that it should be increased to 80.

- (b) However, individual members considered that the number of LegCo seats should remain at 60 seats.

The Delineation of the Electorate of FCs

- (c) Members generally agreed that, in considering the delineation of the electorate of FC, we should take into account that the representativeness and legitimacy of LegCo should be enhanced, and the principle of “balanced participation” should be complied with.
- (d) However, as regards how the additional FC seats should be dealt with if the number of FC seats was to be increased, members held diverse views. Proposals which had been discussed by members included:
 - (i) establishing new FCs;
 - (ii) increasing the existing number of FC seats allocated to District Councils;
 - (iii) replacing corporate votes with director’s / executive’s / association’s / individual’s votes; and
 - (iv) reorganising certain existing FCs.

Whether the arrangement that 20 percent of LegCo seats may be returned by individuals who are not of Chinese nationality or who have the right of abode in foreign countries should be adjusted

- (e) Members held diverse views on whether such arrangement should be adjusted. Members generally agreed that there was no imminent need for changing the relevant arrangement.