



Ref. G2004 -099

30 August 2004

The Secretariat
Constitutional Development Task Force
Constitutional Affairs Bureau
3/F., Main Wing
Central Government Offices
Lower Albert Road
Hong Kong

Dear Sirs,

**The Third Report of the Constitutional Development Task Force:
Areas which may be considered for amendment in respect of the Methods for
selecting the Chief Executive in 2007 and for forming the Legislative Council in 2008**

On behalf of the Employers' Federation of Hong Kong (hereinafter referred to as "the Federation"), we wish to express our appreciation of Government's efforts in soliciting public views on the constitutional development of Hong Kong, as elaborated in the Third Report of the Constitutional Development Task Force ("the Report") released in May this year.

Having regard to the ultimate objective stipulated in the Basic Law of attaining selection of the HKSAR Chief Executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures, and election of all members of the Legislative Council by universal suffrage, the Federation considers that Government should make arrangements for progressively broadening public participation and representation in Hong Kong's political arena.

Among the options stated in the Report, increasing the number of seats in the Legislative Council will be the most direct approach in motivating public participation. A reasonable expansion in size of the Legislative Council in 2008 from the current sixty to, say, eighty members will be beneficial in allowing greater public participation, as a first step towards cultivating and nurturing more rational and mature deliberation of issues of public interest and, more important, grooming political talent in a linear progression towards universal suffrage at an appropriate time in the future.

.../2

香港銅鑼灣
告士打道 255-257 號
信和廣場 20 樓 2004 室
Suite 2004, Sino Plaza
255-257 Gloucester Road
Causeway Bay, Hong Kong

電話 Tel: 2528 0033
傳真 Fax: 2865 5285
電郵 Email: efhk@efhk.org.hk
網址 Website: www.efhk.org.hk

Responding to the appeal made by Mr Donald Tsang, the Chief Secretary for Administration and Chairman of the Constitutional Development Task Force for more active participation of the business sector in the political scene and to focus upon the development of human resources (*vide* his speech at the Hong Kong General Chamber of Commerce luncheon on 16 June 2004), the Federation strongly advocates the establishment of an 'Employer' seat in the Legislative Council in 2008, to be elected from a new and additional functional constituency explicitly consisting of Hong Kong employers. We submit that the establishment of such a seat is necessary in view of the increasing debate in the community on a wide range of pressing social issues, including (but not limited to) unemployment, employee protection, health care financing and social security, particularly during the prolonged, painful and unsettling adjustment period following the Asian financial turmoil, the '911' incident in the United States, avian flu and SARS. Hong Kong needs a voice for employers, an important social partner and engine of wealth creation, to allow professional, constructive and balanced debate on the political agenda crucial to the stability and prosperity of Hong Kong.

The following are strong supporting factors for the establishment of an 'Employer' seat in the Legislative Council in 2008.

1. **Maintenance of a harmonious economic and social environment**

Business decisions on capital and other investment are based to a large extent on an objective evaluation of the availability of a cost effective, efficient and harmonious business environment which is closely linked with the legislative framework relating to employment issues. It is important and beneficial that employers are involved in shaping a favourable business environment for investment by taking part in the detailed development of such a framework. This in turn will create employment opportunities and provide impetus for the economic and social betterment of Hong Kong.

2. **A level playing field between employers and employees**

In the current composition of the Legislative Council, three seats have been allocated to employee representatives from the 'Labour' Functional Constituency. There is no direct counterpart for 'Employer' as such. Although it might be argued that the Legislative Council Members elected by the 'Commercial' and 'Industrial' functional constituencies (two seats each) are representative of employers, the remits of the organizations constituting these constituencies are considerably broader than employment matters. Thus, while employees are directly, professionally and vocally represented by unionists in the Legislative Council, employers as such are not so represented. There have been numerous cases in which proposals that had been developed through tripartite consensus in the Labour Advisory Board were subsequently rejected or altered by the Legislative Council at the instigation of the 'Labour' Members of the Council.

Hong Kong is facing severe challenges brought by economic restructuring. It is anticipated that more and more social issues (including those relating to employment) will be brought up for deliberation. Representation of both 'Employer' and 'Labour' in the Legislature will enhance a more balanced, transparent and level playing field for all stakeholders concerned in expressing and exchanging their respective views.

3. Focus and professionalism on employment issues

There is a perception that the Legislative Council is packed with employers. However, as pointed out in sub-paragraph 2 above, while many Legislative Members or their electors may be employers in their own right, employers as such are not directly, professionally and vocally represented in the same way as their 'Labour' counterparts. As Hong Kong tackles the many challenges it is facing in the transition towards a knowledge-based economy, greater focus and professionalism in the participation of employers in the related discussions is necessary to safeguard Hong Kong's competitiveness in the international arena.

4. Regular and constant communication enhances consensus

Employers and employees should be complementary in seeking mutual benefits and working for the best interests for Hong Kong as a whole, rather than confrontational. This can be achieved through constant dialogue between employer groups and major unions in Hong Kong. Such collaboration is essential in building up the necessary community solidarity in helping Hong Kong to move forward in the new century. The presence of an 'Employer' Member in the Legislature would further enhance cooperation between employers and employees.

5. A collective employers' voice on employment issues

While sharing the social responsibility in building up the community, employers are inclined to be conservative and politically apathetic. To motivate open and proactive participation of employers in the political arena as advocated by the Chief Secretary for Administration, Government should provide a constructive platform for business leaders to air their opinions towards achieving a business friendly environment.

6. A navigator for manpower needs and its maintenance

Human capital is the key to success for all businesses. As end users, employers have first hand information on the ever changing needs for human capital. This makes employers' input in the development of education vital. An 'Employer' member in the Legislative Council will help develop, maintain and retain the required human capital for the effective and efficient running of businesses by addressing the ever changing needs for human capital and the most up-to-date best practices human resources management.

Should Government decide to establish a new 'Employer' functional constituency, the Federation strongly submits that it should be designated as the organization constituting that constituency for the following reasons:

1. A recognized and long established employer group focusing on employment matters

The Federation has been established for over fifty years and has been actively involved in Hong Kong employment matters, representing a wide cross-section of enterprises, ranging from SMEs to multinational corporations, that collectively command a significant slice of Hong Kong's economic activity and employ more than half a million

workers in the private sector. Majority of members of the Federation come under ten business sectors, namely: Industrial & Manufacturing; Shipping & Port Operations; Professional & Business Services; Hotel & Catering; Public Utilities; Banking & Financial Services; Property & Construction; Trading & Distribution; Transportation; Insurance

The Federation is the recognised, leading voice for Hong Kong employers and has been nominated as employer representatives in the Labour Advisory Board, the Manpower Development Committee, the Employees Retraining Board, the MPF Schemes Operation Review Committee, the Rehabilitation Advisory Committee, the Sub-committee on Promotion of Corporate Volunteering of the Steering Committee on Promotion of Volunteer Service as well as Committees of the Occupational Safety & Health Council and Vocational Training Council and Careers Advisory Boards of various Universities.

The Federation is one of the tripartite bodies representing Hong Kong in the International Organisation of Employers and the International Labour Organisation. The Federation has also been leading the Joint Business Group on Labour Situation comprising fourteen business associations in Hong Kong since 1996 with particular focus on labour supply and demand and has formulated the mainstream views of the business community on various topical labour issues such as collective bargaining, minimum wages etc.

2. An advocate for maintaining Hong Kong's international competitiveness

To maintain Hong Kong's competitiveness in the international business arena, the Federation has been managing pay expectations in Hong Kong since 1993 by conducting pay trend surveys and issuing pay guidelines which have become key indicators for salary adjustments in Hong Kong. The Federation advocates pay by performance (including performance of the company and of the individual employee), the introduction of variable pay and open communication, constructive dialogue and transparency between employers and employees in order to achieve a win-win situation in coping with the ever changing business environment under globalization.

The Federation is a key advocate for civil service reform, particularly with a view to maintaining broad comparability between private sector pay and civil service pay which plays an important role in maintaining a viable business environment in Hong Kong. The Federation also offers its assistance to help Government become more efficient and effective in serving the community through better management of its work force.

3. An advocate for good employment practices

The Federation pioneered the preparation and production of a *Guide to Good Employment Practices* to help employers understand and follow the very best and most up-to-date employment practices. Through seminars and experience sharing sessions, employers are, for example, enlightened on the long term impact of employee layoffs; encouraged to observe occupational safety and health measures; educated about their social responsibility as corporate citizens sharing a strong sense of partnership with the community; and advised to be mindful for the well-being of their employees by introducing measures to improve their morale and overcome various forms of stress. All these are political issues of significant importance in the Government agenda.

4. An alliance for building human capital

The quality of human resources is the key to success in a knowledge-based, modern, globalized economy. Through its representation in various universities and other tertiary education institutions, the Federation advises on the needs of the business community in preparing the right talents and skills to match the ever changing job requirements in the present world. The Federation also acts as a bridge between Government and the business sectors for encouraging participation in various initiatives in nurturing/retraining, skills upgrading and the establishment of qualification benchmarks for the young, the middle aged, the elderly and the disabled in preparing them to serve the community. Examples include the Youth Pre-employment Programme, the Youth Work Experience Training Scheme, One Company One Job for University Graduates and the Middle Age Re-employment Programme. All these will help to shape Hong Kong's future.

The Federation works with various universities in many research projects aimed at identifying the problems associated with manpower development in Hong Kong and finding solutions to such problems. The Federation also works closely with the Business Coalition on Education, conducting surveys to help Government identify the IT needs of Hong Kong, commenting on language standards and how they could be improved, suggesting various improvements in the education system etc. Most important of all, the Federation advocates Business/School Partnership, allowing young people to have a better understanding of the working environment prior to joining the workforce.

As the Convenor of the Joint Business Group mentioned in sub-paragraph 1 above, the Federation plays an influential role in finding ways to meet specific demands for labour, such as those arising from the Airport Core Project, and in the development of the Supplementary Labour Scheme.

Last but not least, the Federation helps employers identify the most up-to-date best practices in human resources management, thereby facilitating employers to build and maintain a better relationship with their employees and fostering the maintenance and retention of talents and the smooth running of businesses.

5. A gatekeeper for employers

To become Asia's World City, Hong Kong is introducing more and more sophisticated legislation, Codes of Practice and Guidelines by reference to the practices in other world cities. The Federation keeps a close eye on all proposals for such stipulations, insofar as they relate to employment matters, to ensure that the drawbacks of these practices in the very developed cities are not repeated in Hong Kong.

6. A platform for experience sharing with Mainland China

With robust growth in Mainland China, its ongoing opening up under the WTO discipline and CEPA, expansion of operation into the Mainland has become a trend among a large number of Hong Kong enterprises. The Federation provides a platform for experience sharing on various employment practices in different provinces and cities on the Mainland, thereby facilitating the interflow of human capital, expertise and capital investment between them and the Hong Kong SAR. This has a great impact on the long term development of Hong Kong.

Heading down the road to the ultimate goal of electing all Legislative Council members by universal suffrage, the role of functional constituencies will have to evolve in a gradual, progressive and orderly manner. The expansion of the number of seats in the Council in 2008, in both the geographical and the functional constituencies, will provide a reasonable and forward looking approach in paving the way towards full democracy in Hong Kong's constitutional development.

The Federation earnestly requests the Task Force and the Hong Kong SAR Government to give full and favourable consideration to the establishment of a new 'Employer' functional constituency for the Legislative Council elections to be held in 2008 and the designation of the Employers' Federation of Hong Kong as the organization constituting that constituency.

Should you wish to have further elaboration on the Federation's views, please do not hesitate to contact me or Mrs Jackie Ma, the Executive Director of the Federation at . For more details of the Federation, please refer to our website (<http://www.efhk.org.hk>)

Yours sincerely,

(Signed)

Victor Apps
Chairman