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香港下亞厘畢道  
中區政府合署(中座)3樓  
香港特別行政區政府  
政務司司長及政制發展專責小組組長  
曾蔭權先生

曾司長：

政制發展專責小組第三號報告

很感謝您在2004年8月11日信中邀請我們對第三號報告提供意見。  
現附上香港民主促進會的中英文意見書。

我們希望有機會與政制發展專責小組見面及討論我們的建議，特別是我們對功能組別選舉的組成及產生方法背後的原則及細節。

香港民主促進會主席  
龍家麟

(已簽署)

副本交政制事務局局長林瑞麟先生



## 建議大綱

1. 擴大特首選舉委員會成員至 6,400 人 (1.1.2)
2. 建議更改選舉委員會的界別 (1.2.2, 1.2.3, 1.2.5, 1.2.6, 1.2.7 & 1.2.8)
3. 建議特首候選人所需的選舉委員會成員人數 (1.3.1)
4. 建議選擇選舉委員會選民資格 (1.4.2, 1.4.3, 1.4.4, 1.4.5 & 1.4.6)
5. 檢討選舉委員會第一、第二及第三界別的組成 (1.4.7)
6. 建議行政長官選舉引入強迫投票及郵遞投票制度 (1.5.1)
7. 訂定特首選舉最低有效投票率 (1.5.2)
8. 訂定特首最低當選票數 (1.5.3)
9. 增加 2008, 2012, 2016 年立法會席位 (2.1.3)
10. 重新整合功能組別 (2.2.1, 2.2.2 & 2.2.3)
11. 為功能組別選舉進行獨立諮詢 (2.2.6)
12. 香港民主促進會對功能組別的組成及架構提出建議 (2.2.7 & 附錄 1)
13. 取消功能組別中的「公司投票」制度 (2.3.1)
14. 保留立法會成員中有非中國國籍成員比例 (2.4.1)
15. 檢討地區直選的組成及產生方法 (2.5.2)
16. 立法會選舉引入郵遞投票 (2.6.1)
17. 研究及公開諮詢政黨法律及政黨的角色 (2.7.2)



## 香港民主促進會對政制發展專責小組第三號報告的回應

香港民主促進會很高興有機會對 2007 年特首選舉辦法及 2008 年立法會選舉辦法提出意見。

在對以上兩個問題提出意見之前，香港民主促進會希望對全國人大常委會就 2007 年特首產生辦法及 2008 年立法會產生辦法所作出的決定表示遺憾。我們並不是懷疑全國人大常委會是有權力對這些問題做出規定，但我們希望藉此機會指出，建立一個「更有效益的香港政府」是中央政府和香港人民一個最大的共同目標。香港民主促進會相信全國人大常委會在作出該決定時，並沒有完全瞭解香港需要一個有效和有公信力的民主機制才能達到建立「效益政府」這一個共同目標。

### 1. 2007 年特首產生辦法

由於有全國人大常委會作出了約束性的決定，香港民主促進會提出的意見是符合和受制於人大常委提出的幾個原則內的。

#### 1.1 選舉委員會成員人數

##### 1.1.1

香港民主促進會認為擴大 2007 年特首選舉委員會成員人數是非常重要的。

##### 1.1.2

我們建議將人數按如下安排擴大到 6,400 人，目的是重新劃分四個界別，使選民更具有廣泛的社會代表性：

工商、金融界	2,000
專業界	1,000
勞工、社會服務、宗教等界	3,000
立法會議員、區域性組織代表、 港區全國人大代表、政協委員	400

### 1.1.3

我們建議擴大選舉委員會的基礎是由現有的人數(分四個界別,每個界別 200 人)增加十倍。擴大選舉委員會的人數目標是希望每個特首候選人真正去進行有意義的選舉活動;這也可減少操控選舉結果的可能性。

### 1.1.4

但是我們認為訂定選民人數時,也要考慮其他因素。第一、第四個界別現時的選民人數只有 646 人,所以將這個界別的選民人數增加到 2,000 人,好像沒有可能。我們提議第四個界別的選民只增加 1,112 人,所以只分配 400 個選舉委員會議席(選民人數的三分之一)給第四個界別是比較合理的。

### 1.1.5

第二、香港民主促進會認為如果將 6,000 個席位分配給第一、第二和第三個界別是更能實際反映香港社會的組成。

## 1.2 選舉委員會四個界別的組成

### 1.2.1

香港民主促進會對選舉委員會提出一些修改建議。

### 1.2.2

第一個界別(工商、金融界):我們的意見是合併成爲三個部分,「商業」、「工業及製造業」、「金融服務界」。而現有選民則按照職業分配到最適合的一個部分。

### 1.2.3

我們建議將漁農界,體育、演藝、文化及出版界由第三界別轉爲第一界別下的「工業及製造」部分,我們認為這比劃爲第三界別更加合適。

### 1.2.4

因此,我們提議第一界別 2,000 選民的組成如下:

商業	1,000
工業及製造業	500
金融服務業	500

我們認為這種成員構成是依據這三個界別對社會及經濟貢獻而作出的更合理安排，我們已經為工業及製造業在香港以外的工業生產所作出貢獻也計算在內。

#### 1.2.5

第二界別（專業界），香港民主促進會建設由 10 個選民團體按比例分配這個界別的選票。

因此，我們提出如下意見：

會計界	100
建築、測量及都市規劃界	30
中醫界	20
教育界	440
工程界	40
衛生服務界	220
高等教育界	30
資訊科技界	30
法律界	30
醫學界	60
合計	1,000

#### 1.2.6

第三界別（勞工、社會服務、宗教等界），香港民主促進會建議這部分可以重新命名為社會及宗教界。我們認為，在漁農、出版界整合成為第一界別後，新的名稱非常合適。勞工和體育、演藝及文化一樣都可歸納為社會界別。

#### 1.2.7

基于這個新結構，我們建議第三界別組成如下：

勞工界	1,650
宗教界	450
社會福利界	450
體育、演藝、文化及出版界	450

### 1.2.8

宗教界還可以劃分為以下部分：

天主教香港教區	80
中華回教博愛社	60
香港基督教協進會	80
香港道教聯合會	70
孔教學院	80
香港佛教聯合會	80

### 1.2.9

除了對選民人數作出修改，香港民主促進會對第四界別的組成沒有意見。

### 1.2.10

香港民主促進會明白上述的選民人數建議是有一點武斷的，所以我們希望功能發展小組能就將來每個界別的真正選民人數作出公開諮詢和討論。我們的目標只是提出一些通用的原則，希望更能實際反映每一個界別的組成和代表性。

## 1.3 提名特首候選人所需的選舉委員會成員人數

### 1.3.1

香港民主促進會認為，特首候選人至少要獲得 100 個選舉委員會成員的提名，但最多不能超過 500 人(根據選民人數為 6,400 人計算)。

## 1.4 選擇委員會選民身份

### 1.4.1

香港民主促進會強烈要求廢除公司選民，並建議給予公司或團體經理或者負責人投票權。這樣擴大選舉委員會選民的範圍對特首選舉的公信力是有利的。

### 1.4.2

對這一界別內所有的公司成員，所有在選舉前登記的公司董事及根據公司註冊條例登記的負責人都應有投票權。

#### 1.4.3

同樣地，對所有其他團體，社團的所有登記的負責人也應將獲得投票權。

#### 1.4.4

有關的宗教界，第三分報告書沒有對其選民構成作出詳細描述。香港民主促進會建議，宗教界的投票人由各個選民團體的成員組成，這些人是神父、神職人員、僧人等。

#### 1.4.5

第四個界別選民人數的組成，香港民主促進會建議如下：

港區人大代表	36
香港政協代表	122
立法會議員	60
鄉議會	417
香港及九龍區議會	246
新界區議會	259

#### 1.4.6

鄉議會選民包括中央委員會會員 27 個鄉事委員會的正副主席，而港九新界區議會包括所有選舉及委任產生的議員及當然委員。

#### 1.4.7

香港民主促進會希望提出一個完整的有關第一、第二、及第三界別的選民方案，也希望可以能夠取消與界別無關的選民組合。遺憾的是，香港民主促進會並沒有研究資源來提出這樣一個方案。

### 1.5 有效當選特首的最少票數

#### 1.5.1

香港民主促進會提議特首選舉引入強迫投票的基制。為選舉順利進行，我們相信有需要引入郵寄投票制度及在各區設立投票站以方便選民。

### 1.5.2

第一，香港民主促進會認為只有投票率達到 75%，特首的選舉才能算有效。

### 1.5.3

第二，當選特首至少要獲得參加投票人數的 50% 的支持。如果第一輪沒有達到這一要求，那將進行第二或更多輪的選舉，直至有候選人勝出。如果第一輪有兩個以上的候選人參加，只有排名前兩位的候選人才有資格進入下一輪投票。

## 2. 2008 年立法會產生辦法

### 2.1 立法會席位

#### 2.1.1

香港民主促進會認為，增加立法會席位是非常必要的，這將提高立法會的工作效率，並且促進立法會的良性發展。

#### 2.1.2

其中一個增加立法會議席的理由是部分主要來自功能團體的議員並沒有參與立法會日常工作，而把工作量轉移到其他議員身上。

#### 2.1.3

以下是香港民主促進會對立法會擴大規模的看法：

2008 年 80 個席位（地區和功能組別各增加 10 個）

2012 年 100 個席位（地區增加 20 個）

2016 年 120 個（地區增加 20 個）

#### 2.1.4

如有需要，在 2016 年或以後，立法會議席可增至 120 席，而所有新增的 20 席，應為地區直選的議席。



## 2.2 功能組別選民

### 2.2.1

功能組別選舉已經表現出有很多不正常的情況，由於 2008 年還會將繼續存在功能組別選舉，香港民主促進會希望政府能夠就功能組別的選舉制度作出一個完整，有連貫性的重新安排。

### 2.2.2

現有的功能組別應根據以下的原則劃分：

- 1) 功能組別對社會有貢獻
- 2) 選民資格不應基於理想、宗教信仰
- 3) 個別的團體不能在超過一個功能組別中出現

### 2.2.3

此外，新的安排還要着重提出解決代表人數不平衡的問題。例如是各個組別在立法會都只能有一個席位，而不考慮其組別的大小(勞工界別分配有三個席位除外)。在分配給大的功能組別的時候，應要有更多的彈性，盡可能的根據這個組別的規模大小去分配議席。勞工組別就是一個好的先例。在地區與功能組別的席位相應增加的情況下，這是分配額外功能組別席位的好的方法。為了使分配更合理，可以將一些小的功能組別合併為單一的功能組別，例如「金融」和「金融服務界」合併，「地產及建設」與「建築、測量、都市規劃」界合併等等。

### 2.2.4

香港民主促進會關注 2004 年功能組別選舉中有 11 位議員是自動當選的，這是對民主的一種嘲笑。

### 2.2.5

近年有更有個別功能組別演變成爲行業遊說組織的趨勢，這正是違反議員誓詞中爲全港服務的承諾。例如在 2004 年的金融服務界選舉，幾乎所有候選人的競選大綱都有違背廣大投資者的利益及違背香港成爲負責任的金融中心的目標。

### 2.2.6

香港民主促進會建議專責小組能在 2005 年就改革功能組別提出一份個別的公開諮詢文件。

### 2.2.7

香港民主促進會相信上述的流弊可以利用將功能組別整合的方法而得到解決。我們提議是(除了教育、勞工界、鄉議局及區議會以外)將功能組別整合成 7 個多議席的功能組別(見附錄 I)。勞工界及教育界可保留成為獨立功能組別。而勞工界組別可增至 7 席，教育界可增至 3 席，鄉議局及區議會的組成是有違專業界別性的組成概念，所以議席可以取消。

## 2.3 功能組別中的公司票

### 2.3.1

香港民主促進會非常支持取消功能組別中的「公司投票」，認為應該由現有的負責人以個人身份代表公司進行投票，這樣更多的個別公司經理應該可以作為選民進行投票。我們更提議所有公司董事合夥人及社團條例下註冊的公司負責人，都可以在登記後成為功能團體選民，而在勞工界功能組別選民應該是所有工會的註冊會員。

## 2.4 立法會議員國籍的規定

### 2.4.1

香港民主促進會支持保留立法會成員中有 20% 人數可以不是中國國籍或在外國有居留權的規定。2008 年立法會選舉，如立法會席位增加，這些席位必需是分配在功能組別內。一旦增加的功能界別被重新分配，政府應向公眾諮詢功能組別中應保留多少不是中國國籍或有外國居留權的議員。

## 2.5 地區選舉的投票

### 2.5.1

香港民主促進會一向贊成採取比例代表制進行地區選舉。然而，我們認為，現行的「名單」制度是有很大的缺陷。我們一向較為喜歡採用「單一可轉移票制」(STV)。在這制度下選民根據自己的選擇將所有候選人的先後喜好排列，我們相信「單一可轉移票制」可為選民提供更多選擇，亦可平衡各政黨的問責性及比例代表性。

### 2.5.2

無論我們的喜好是怎樣，我們都瞭解到不同的投票制度會為選舉帶來不同的結果及直接影響立法會的組成及代表性。我們亦知道部分人提議香港需要 2 個或 3 個有能力影響政府政策的政黨，所以，投票制度理應更深入研究及有更多的公眾討論。除了上述的各種比例代表制，我們亦應考慮用小選區「單議席單票制」及「雙議席單票制」的制度。我們最後提議是在 2008 年制訂分區直選制度之前政制發展專責小組應再作另一輪的公眾諮詢。我們傾向相信現行的「名單制」是有需要修改的，但可能留待最後決定增加立法會議席後才作一次性「長遠」修改。

## 2.6 郵遞投票方法

### 2.6.1

香港民主促進會提議在 2008 年的立法會選舉及 2007 年的行政長官選舉加入郵遞投票制度，以方便有必要外遊人士、傷殘人士或老弱者得回投票權。

## 2.7 政黨法律

### 2.7.1

目前還沒有一部政黨法律，現有的政黨都是以公司或社團的名義註冊。

### 2.7.2

香港民主促進會認為，這種情況傳遞了一種信息：政府對政黨規則感到矛盾，並且因政黨法律地位不明顯而不鼓勵市民加入政黨。

### 2.7.3

因此，我們強烈希望政府盡快落實政黨立法，便於政黨註冊，這樣它們的活動包括資金募集能正常的開展。我們希望，這部法律能在 2006 年底完成，2008 年立法會選舉時部法律可以實施，使政黨可以有合適的法律地位來參加選舉。

## 附錄 I: 建議 2008 年立法會功能組別席位

製造業	4
漁農	
工業第一	
工業第二	
出版（來自體育、演藝、文化及出版）	
地產及建造	
紡織及製衣	
商業	5
商業第一	
商業第二	
進出口	
批發及零售	
科技	4
建築、測量及都市規劃	
工程	
資訊科技	
航運交通	
金融	4
金融	
金融服務	
保險	
服務	3
飲食	
旅遊	
專業	5
會計	
法律	
醫學	

社會服務	5
衛生服務	
社會福利	
體育、演藝、文化	
勞工	7
教育	3

註：功能組別議席總數為 40 席，為現時的 30 席功能組別議席增加 10 席。這個數字使 2008 年議員人數由 60 增加為 80，地區和功能各增加 10。



Tuesday, September 28, 2004

Mr. Donald Tsang  
Chief Secretary for Administration  
Head, Constitutional Development Task Force  
Constitutional Affairs Bureau  
3/F, Main Wing  
Central Government Offices  
Lower Albert Road  
Hong Kong

Dear Mr. Tsang,

**Third Report of the Constitutional Development Task Force**

Thank you for your letter dated 11 August 2004 inviting us to submit its response to the Third Report of the Constitutional Development Task Force.

We are enclosing our submission in Chinese and in English and we shall be happy to meet with the Task Force to discuss our proposals. In particular we would like to draw the attention of the Task Force to our innovative proposals regarding the composition of the Functional Constituencies and would be pleased to discuss the rationale behind these in more detail, as we believe these to be constructive and potentially of significant importance.

Sincerely yours,

(Signed)

Alan Ka-Lun LUNG  
Chairman  
Hong Kong Democratic Foundation

Cc: Mr. Stephen LAM, Secretary for Constitutional Affairs



## SUMMARY OF RECOMMENDATIONS

1. Expand the Election Committee for the Chief Executive to 6,400 members (1.1.2)
2. Proposals to amend the Election Committee Sectors (1.2.2, 1.2.3, 1.2.5, 1.2.6, 1.2.7, & 1.2.8)
3. Proposals made for minimum and maximum nomination levels for candidates for election to the position of Chief Executive (1.3.1)
4. Proposals made for qualifications as voter for election of members of the Election Committee (1.4.2, 1.4.3, 1.4.4, 1.4.5 & 1.4.6)
5. Review of constituent membership of First, Second & Third Sectors of Election Committee recommended (1.4.7)
6. Compulsory Voting and Postal Voting for the election of Chief Executive proposed (1.5.1)
7. Alternative of a minimum number of votes cast in order for the election of Chief Executive to be valid proposed (1.5.2)
8. Minimum number of valid votes required for winning candidate to be elected as Chief Executive proposed (1.5.3)
9. An increase in the number of Legislative Council Seats proposed (2.1.3)
10. Re-evaluation of the composition of Functional Constituency sectors proposed (2.2.1, 2.2.2 & 2.2.3)
11. A separate study and subsequent public consultation exercise on the Functional Constituencies proposed (2.2.6)
12. Brief details of the Hong Kong Democratic Foundation's proposals for a new Functional Constituency structure (2.2.7 & Appendix I)
13. Elimination of "corporate voting" in the Functional Constituencies proposed (2.3.1)
14. Retention of the present arrangements for provision for Legislative Council members not of Chinese nationality supported 2.4.1)
15. Review of voting system for Geographical Constituencies proposed (2.5.2)
16. Postal Voting for Legislative Council elections proposed (2.6.1)
17. Study and subsequent public consultation on how to better formalize the role of political parties recommended (2.7.2)



**HONG KONG DEMOCRATIC FOUNDATION  
RESPONSE TO  
THE THIRD REPORT  
OF THE  
CONSTITUTIONAL DEVELOPMENT TASK FORCE**

The Hong Kong Democratic Foundation (HKDF) is pleased to forward its views on the Methods of Selecting the Chief Executive in 2007 and for Forming the Legislative Council in 2008.

Before setting out our views on these two issues, the HKDF would like to express its disappointment over the Decision by the Standing Committee of the National People's Congress (NPCSC) in respect of the methods for selecting the Chief Executive in 2007 and for forming the Legislative Council in 2008. While not disputing the authority of the NPCSC to rule on these issues, we would like to point out that "Better Government for Hong Kong" is the single most important common goal shared by the Central Government and the people of Hong Kong. The HKDF believes the NPCSC's decision was made without a comprehensive understanding that a strong democratic foundation is needed for building this important common goal.

**1. The Method of Selecting the Chief Executive in 2007**

Since Hong Kong will be subject to the constraints of the Decision of the NPCSC on the issue, the HKDF's proposals will keep within these boundaries.

**1.1 The Number of Members of the Election Committee**

1.1.1 The HKDF believes it important to expand the size of the Election Committee (EC) for the 2007 Selection of the Chief Executive.

1.1.2 We therefore recommend the EC is expanded to 6,400 members allocated amongst the Four Sectors as follows:

First Sector:	Industrial, commercial and financial sectors	2,000
Second Sector:	The professions	1,000
Third Sector:	Labour, social services, religious and other sectors	3,000
Fourth Sector	Members of the Legislative Council, representatives of district-based organizations, Hong Kong Deputies to the National People's Congress and representatives of Hong Kong members of the National Committee of the Chinese People's Political Consultative Conference	400



- 1.1.3 Our starting basis for expanding the EC is to take the current number of seats each sector has, which is 200 and multiply these by a factor of 10. The HKDF believes any expansion of the EC should deliver an electorate of a size large enough to both encourage the need for candidates to engage in genuine and active campaigning and minimize the possibility of "fixing" the result.
- 1.1.4 However, we also felt other factors needed to be taken into consideration. Firstly, the total number of voters for the Fourth Sector is currently only 656 and therefore it is impractical for this sector to have 2,000 seats. Under our proposals for the expansion of the electorate for the Fourth Sector set out later in this paper, the number of voters in the Fourth Sector would be increased to a total of 1,112 electors. On this basis we felt an allocation of 400 EC seats, approximately one third of the electorate, would be reasonable.
- 1.1.5 The second factor the HKDF felt needed to be taken into consideration was that it is not equitable that all four sectors have an equal number of EC seats. Therefore we re-allocated the total 6,000 seats for the First, Second and Third sectors among them, to more practically reflect the relative balance of these sectors within the community as a whole.

1.2 Composition of the Four Sectors of the Election Committee

- 1.2.1 The HKDF proposes some fine-tuning of the Election Committee sectors.
- 1.2.2 With regard to the First Sector (Industrial Commercial & Financial Sectors), our proposal is that these are consolidated into just three groups, Commercial, Industrial/Production and Financial Services, with the existing constituents being allocated to whichever of these three groups is most relevant to their occupation.
- 1.2.3 We also propose that the Agriculture and Fisheries sector and the Publication segment of the Sports, Performing Arts, Culture and Publication sector, both of the Third Sector be transferred into the First Sector under the Industrial/Production group, as we believe this is a more appropriate grouping for them than being part of the Third Sector.
- 1.2.4 As a result of this consolidation we propose the 2000 seats on the Election Committee for the First Sector be allocated as follows:

Commercial	1,000
Industrial/Production	500
Financial Services	500

We believe this allocation represents a reasonable level of proportionality between the three groups in terms of their economic contribution to the community and in this respect we have taken into account the contribution of the Industrial/Production group that is derived from its activities outside Hong Kong.

- 1.2.5 For the Second Sector (The Professions) the HKDF recommends that the number of members of the Election Committee that each of the 10 constituent bodies can elect be generally proportional to share of total voters for this Sector each constituent body holds.

Therefore, the proposed membership allocation for the Second Sector would be as follows:

Accountancy	100
Architectural, Surveying and Planning	30
Chinese Medicine	20
Education	440
Engineering	40
Health Services	220
Higher Education	30
Information Technology	30
Legal	30
Medical	<u>60</u>
<b>Total</b>	<b>1,000</b>

- 1.2.6 With regard to the Third Sector (Labour, Social Services, Religious and Other Sectors), the HKDF proposes this is renamed as Social and Religious Sector. We believe this is more appropriate after the transfer of Agriculture and Fisheries and Publication to the First Sector and that the Labour sector can reasonably be regarded as a "social" sector as can Sports, Performing Arts and Culture.
- 1.2.7 Based on this re-structuring we propose the membership allocation of the Election Committee for the Third Sector be as follows:

Labour	1,650
Religious	450
Social Welfare	450
Sports, Performing Arts & Culture	450

1.2.8 Furthermore, the number of members to be nominated by each of the six designated bodies of the religious sub-sector is proposed as follows:

Catholic Diocese of Hong Kong	80
Chinese Muslim Cultural Fraternal Association	60
Hong Kong Christian Council	80
The Hong Kong Taoist Association	70
The Confucian Academy	80
The Hong Kong Buddhist Association	80

1.2.9 Apart from the number of EC members to be elected, the HKDF proposes no changes to the Fourth Sector.

1.2.10 The HKDF recognizes that the above proposals are somewhat arbitrary in nature and as far as we are concerned the precise EC seat numbers for the constituent members of the various Sectors should be open for discussion. Our purpose is to propose the general principle that the allocation of seats be based, as far as possible, on an objective assessment of the relative representativeness of each constituent member within its Sector.

1.3 The Number of Members of the Election Committee Required for Nominating Candidates for the Office of Chief Executive

1.3.1 The HKDF considers 100 members of the Election Committee to be an adequate minimum nomination requirement and furthermore recommends that 500 members be the maximum number of nominees any candidate can retain, based on the proposed increased electorate of 6,400.

1.4 The Delineation and Size of the Electorate of the Election Committee

1.4.1 The HKDF is strongly in favour of the abolition of corporate voting and therefore proposes that the directors or office bearers, as appropriate, of corporate members and organizational members should be enfranchised. This would also have the benefit of widening the electorate for membership of the Election Committee.

1.4.2 With regard to Corporate members of a Sector, all directors of the company duly registered with the Companies Registry at a certain date before the compilation of the electoral roll for the Election Committee should be entitled to be voters in the election of members of the Election Committee.

1.4.3 Similarly, for Organizations (including partnerships and societies that are members of a Sector, all registered office bearers holding office at a certain date before the compilation of the electoral roll for the Election Committee should be entitled to be voters in the election of members of the Election Committee.

1.4.4 As far as the Religious Sector is concerned, the Third Report of the Constitutional Development Task Force provides no details on the voter composition for this sub-section. The HKDF recommends that the voters in the Religious Sector comprise all members of the constituent bodies who are employed in the capacity of priest, clergy, monks, nuns and equivalent positions, depending on the particular constituent body.

1.4.5 In respect of the Fourth Sector, the HKDF recommends the EC electorate be as follows:

Hong Kong Deputies to the National People's Congress	36
Hong Kong Members of the National Committee of the CPPCC	122
Members of the Legislative Council	60
Heung Yee Kuk	417
Hong Kong & Kowloon District Councils	245
New Territories District Councils	259

1.4.6 The Heung Yee Kuk electorate would consist of the Executive Committee members, including the Chairmen and Vice Chairmen of the 27 Rural Committees. The electorate of the Hong Kong & Kowloon District Councils and the New Territories District Councils comprises all elected, appointed and ex-officio members.

1.4.7 The HKDF also recommends that a thorough review is carried out to ensure that all relevant constituents of the First, Second and Third Sectors have been included and that any constituents currently included that are no longer relevant to their Sector are deleted. Regrettably, the HKDF does not have the resources to carry out such a review and submit its own recommendations on this issue.

1.5 Minimum Votes Required to be Secured by the Successful Candidate in order to be Considered as having been Validly Elected

1.5.1 The HKDF proposes that compulsory voting be introduced for the election of the Chief Executive. To facilitate this, provision would need to be made for Postal Voting (PV). Furthermore, in view of the greatly increased size of the electorate it would be necessary to set up a number of polling stations throughout the SAR to enable convenient access to voting for the electors.

1.5.2 Should this proposal not be adopted, the HKDF recommends that the election of the Chief Executive can only be considered to be valid provided a minimum of number of the members of the Election Committee have cast valid votes and it is our proposal that this be set at 75% of the electorate.

1.5.3 Secondly, the successful candidate must receive a minimum of in excess of 50% of the votes cast. If this is not achieved in the first round of voting a second round

of voting and any necessary subsequent rounds of voting must be held until a winning candidate achieves in excess of 50% of the votes cast. Should more than two candidates have stood in the first round of voting, only the first two by magnitude of votes secured would be eligible to proceed to the second and any subsequent round of voting.

## **2. The Method of Forming the Legislative Council in 2008**

### **2.1 The Number of Seats in the Legislative Council**

- 2.1.1 The HKDF believes there is a need to increase the number of seats in the Legislative Council (LC) in order for its work to be carried out efficiently and to encourage the development of a pool of experienced legislators.
- 2.1.2 One of the justifications for an increase in LC seats is that a number of legislators, principally from the Functional Constituency sector (FC), do not participate to a sufficient extent in the routine work of the LC, thus putting an extra burden on other legislators.
- 2.1.3 It is the HKDF's view that the size of the LC be increased on an incremental basis as follows:

80 seats in 2008 {10 additional seats in the Geographical Constituencies (GCs) and 10 additional seats in the FCs}  
100 seats in 2012 (all 20 additional seats to be for the GCs)

- 2.1.4 If experience demonstrated a need, the number of seats could be increased to 120 in 2016 or a later date, with all 20 additional seats to be for the GCs.

### **2.2 The Delineation and Size of the Electorate of Functional Constituencies**

- 2.2.1 Extensive examination of the FC system has shown it has a host of anomalies and since these constituencies will continue on for the 2008 LC elections, the HKDF is of the strong opinion that the Government carry out a thorough review of the FC system with the objective of bringing a more coherent rationale to the whole system.
- 2.2.2 The current FCs should be evaluated to see if they comply with the following basic criteria:
  - (1) FCs should be substantial and of importance in the community
  - (2) Constituencies should not be based on ideology, dogma or religion
  - (3) Particular groups or bodies should not be represented in more than one FC

- 2.2.3 Additionally, any review should address the issue of disproportionate representation, which results in each FC having one seat in the LC, irrespective of its size relative to other FCs, with the exception of the Labour FC, which returns 3 seats. The review should examine the feasibility of allocating more seats to the larger FCs, to more realistically reflect their relative size. The precedent is already there with the Labour FC. On the assumption that the number of GC and FC seats in the LC will be increased, this could be an appropriate way of allocating the extra FC seats. Also, where it would be rational, there may be a case for combining some of the smaller FCs into a single FC, such as Finance with Financial Services and Real Estate and Construction with Architectural, Surveying and planning.
- 2.2.4 The HKDF is also concerned that no elections take place in a number of FCs and that in respect of the 2004 LC election, 11 FC members will be returned unopposed. Such a situation makes a mockery of the democratic process and to have one third of the FC seats returned in this way underlines fundamental flaws in the current FC system.
- 2.2.5 There appears to be an increasing tendency over the years for FCs to develop into sectoral lobby groups rather than to work for Hong Kong as a whole, as legislators pledge in their oath of allegiance. It is distressing, for instance, that the platforms of all the candidates in Financial Services sector in the 2004 L C election are strongly partisan and contrary to the interests of the investing public as a whole, thus detrimental to Hong Kong's presumed desire to be a responsible financial centre.
- 2.2.6 The HKDF would propose that a separate consultation paper be issued by the Constitutional Development Task Force in the course of 2005 on the issue of the reform of the FC system.
- 2.2.7 The HKDF believes many of these issues could be effectively addressed by folding the existing FCs, with the exception of the Education, Labour, Heung Yee Kuk and District Council FCs into seven composite, multi-seat constituencies as set out in the attached Appendix. The Labour and Education FCs would be retained as separate FCs, with the Labour FC expanded to 7 seats and the Education FC expanded to 3 seats. The Heung Yee Kuk and District Council FCs would be disbanded, as these are political in nature and contradictory to the occupational concept on which the FCs are generally based.

### 2.3 Corporate Voting in the Functional Constituencies

- 2.3.1 The HKDF most strongly supports the abolition of "Corporate Voting" in the FCs and proposes that for all FCs which now have corporate or organizational electors, the entitlement to vote on behalf of the member be transferred to its directors, partners or office-bearers as individuals. It is our recommendation that

in respect of an FC corporate member all directors of the company duly registered with the Companies Registry, or all partners registered at the Business Registration Office, or all office-bearers registered under the Societies Ordinance at a certain date before the compilation of the electoral roll for the FCs should be entitled to be FC voters. In the case of the Labour FC, the electorate should be all registered members of the constituent Trade Unions.

#### 2.4 Provisions Regarding Nationality of Legislative Council Members

2.4.1 The HKDF would support the maintenance of the provision that 20% of the membership of the LC could comprise members who are not of Chinese nationality or who have the right of abode in foreign countries. For the 2008 LC elections, on the assumption that the size of the LC is increased, half the extra seats should be within the FCs. Once the additional FC seats have been allocated, the Government should implement a public consultation on the FCs that can return members who are not of Chinese nationality or who have the right of abode in foreign countries.

#### 2.5 The Voting System for the Geographical Constituencies

2.5.1 The HKDF has always been a supporter of proportional representation for the GCs. However, we consider the "list" system that is currently in use, while a valid form of proportional representation, has inadequacies. The HKDF's preference is for the Single Transferable Vote (STV) system, where the voter ranks all the candidates in a constituency in order of preference, as we believe the STV voting system is better because it maximizes the voter's choice while preserving the optimum balance between parties, accountability and proportionality.

2.5.2 Irrespective of our preference, we are of the view that since different voting systems will deliver different outcomes for candidates in the same constituency and would therefore have a material impact on the composition of the legislature and its representativeness. We are also aware of the call for the emergence of two or three stronger political parties that are more likely to succeed in affecting government policies. Therefore, the question of the voting system merits further examination and public debate. Apart from the various systems of proportional representation, consideration should also be given to the smaller size, single seat, constituency with First Past the Post (FPTP) outcome as well as double seat constituency with FPTP outcome. We therefore propose that further public consultation takes place on this before any final decision on the voting system for the GCs for the 2008 LC elections is made. However, we believe that it would be desirable to change from the "list" system, though possibly this might be left until the LC has been further enlarged and any change should be regarded as a "long term" change, hence the prudence in more detailed examination of this issue.

2.6 Postal Voting Method

- 2.6.1 The disenfranchisement of electors who might be traveling, disabled or too weak to travel through the absence of a PV facility needs to be rectified and the HKDF strongly urges PV be introduced for the 2008 LC elections, in addition to our earlier proposal for this to be introduced for the 2007 Chief Executive election.

2.7 Political Party Legitimization

- 2.7.1 At the present time there is no such thing as a Political Party (PP) as a specific legal entity. PPs are either registered as "companies" or as "societies".
- 2.7.2 The HKDF believes this situation sends out a message that the Government is ambivalent over the role of PPs and discourages the public at large from joining PPs due to confusion over their legitimacy.
- 2.7.3 Therefore the HKDF strongly urges that the role of PPs be properly formalized within our constitutional system. We propose that the Government carries out an evaluation as to how best to achieve this, either through specific PP legislation or through the mechanism of the Electoral Affairs Ordinance. We would hope such legislation or mechanism could be in place by the end of 2006, so that the campaign for the 2008 LC elections and the elections themselves can be conducted with the participation of PPs operating as such within an appropriate framework.



## APPENDIX I

### PROPOSED FUNCTIONAL CONSTITUENCIES FOR 2008 LEGISLATIVE COUNCIL ELECTIONS

<b>Production Enterprises FC</b>	<b>4 seats</b>
Agriculture & Fisheries	
Industrial (First)	
Industrial (Second)	
Publications (from the present Sports, Performing Arts, Culture and Publication FC)	
Real Estate & Construction	
Textiles & Garments	
<b>Commercial</b>	<b>5 seats</b>
Commercial (First)	
Commercial (Second)	
Import & Export	
Wholesale & Retail	
<b>Technology</b>	<b>4 seats</b>
Architectural, Surveying & Planning	
Engineering	
Information Technology	
Transport	
<b>Financial</b>	<b>4seats</b>
Finance	
Financial Services	
Insurance	
<b>Services</b>	<b>3 seats</b>
Catering	
Tourism	
<b>Professions</b>	<b>5 seats</b>
Accounting	
Legal	
Medical	

<b>Social</b>	<b>5 seats</b>
Health Services	
Social Welfare	
Sports, Performing Arts & Culture	

<b>Labour</b>	<b>7 seats</b>
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<b>Education</b>	<b>3 seats</b>
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**Note**

The total number of proposed FC seats is 40, an increase in 10 over the current number of FC seats allowed by the Basic Law for the 2008 LegCo elections. This number of 40 FC seats is on the assumption that the total number of LegCo seats for the 2008 elections will be increased from 60 to 80, with the extra 20 seats being equally shared between the Geographical and Functional Constituencies