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Dear Sir,

Attached please find my proposal

DH Ng

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# Proposal on amendment of the Methods for selecting the Chief Executive in 2007 and Forming the Legco in 2008

## 1. Method of selecting the Chief Executive

1.1 The present 800 member Election committee to be reformed according to the following method to a 'Functional Electoral committee':

1.1.1 Remove the 123 members from the Legco, Heung Yee Kuk, HK and Kowloon District Council and the New Territories District Council.

1.1.2 To increase the seats of the following sectors:

Sector	Original seats.	New seats	Increase
Catering	11	25	14
Hotel	11	25	14
Tourism	11	25	14
Transport	11	25	14
Wholesale and Retail	11	25	14
Architectural & Surveying	20	25	5
Education	20	25	5
Engineering	20	25	5
Health Service	20	25	5
Higher education	20	25	5
Medical	20	25	5

The 'Functional Election Committee' will then compose of 777 members.

1.2 To form a new 'Election Nomination Committee' which has 480 members, composes all the 60 Legco members and 420 District Board members. This committee will be responsible for nomination of the candidates of the future Chief Executive. Each member can only nominate one candidate and all future candidates need to get 24 names to support his nomination. That means a total of 20 candidates may be nominated.

1.3 The list of candidates so nominated shall be submitted to the Central Government in Beijing. The Central Government will then screen out candidates found 'unfit for close cooperation in the coming five year term'. The 'Functional

Election Committee' shall then hold a 'Primary election' according to the list so filtered. Each member in the 'Functional Election Committee' cast one vote, the two candidates get the highest and second highest vote enter into the 'Final Election'.

1.4 For holding the 'Final Election', the 'Functional Election Committee' and the 'Election Nomination Committee' shall combine together to form a 'Grand Electoral College', which will compose of 1257 members, voting shall be on one member one vote basis. The highest vote candidate becomes the Chief Executive. In case both the two candidate get same votes, who has gotten higher votes in the 'Primary Election' become the Chief Executive.

1.5 Arguments:

1.5.1 The concept of electing the Chief Executive by an election committee which compose of mainly leaders from different functional sectors in the society is in fact system of 'electing elite by the elites' It serve to ensure that the Chief Executive so elected reach the minimum quality requirement. However, because Hong Kong is an international financial center with no control of movement of capital, under the current trend of 'globalization' and an attractive investment environment across the boarder, some of the elites in HK, especially those from the business community, do have a tendency to invest more outside HK and less inside the HKSAR. This means, their future prospect will be gradually relying more on the prosperity of other places, but less on the HKSAR. To a certain extent, it undermines their commitment to the HKSAR. This causes the elites to consider less the well being of the general public in the HKSAR when making political selections or decisions and therefore threaten stability of our society. For this reason, the election committee should has more members whose incomes are generated mainly from HKSAR and have lesser tendency to move their business elsewhere because of barriers in cost and culture, etc.

1.5.2 An 'Election Nomination Committee' composes of mainly directly elected officials encourages candidates of Chief Executive build relationship with the elected officials. This encourage them listen more to opinion from the general public and help the future Chief Executive to form a base to support his initiatives when he is elected. On one hand, it should not be difficult for a candidate to secure support from 24 members. On the other hand, it ensures there will be enough candidates for the Central Government's consideration.

1.5.3 Under the Basic Law, only the Central Government can appoint the Chief Executive. Therefore, it has already granted the Central Government the rights of a final say. Practically speaking, as HKSAR is one of the most important city of China and the Mainland China is the economic hinterland of the HKSAR, a Chief Executive who can't cooperate with the Central Government can never meaningfully execute his duty. However, because the current arrangement has not formally established a procedure for the Central Government to participate in screening the candidates, the Central Government can therefore only express its view or preference strongly to the public so as to avoid the constitutional crisis which may so created if the Chief Executive elected is not a person who the Central Government could cooperate with. This just caused unnecessary confusion, public discontent and an impression that the election was manipulated. Formally establishing the authority of the Central Government in screening potential candidates of Chief Executive will not only solve the above problems, but will also encourage some political actors who want to seek for the highest office to take a cooperative approach with the Central Government. Finally, it helps define more clearly the relationship between the HKSAR and the Central Government under the 'One Country, Two System'

1.5.4 Holding a primary election by the 'Functional Election Committee' serves to ensure that view of the elites in the establishment is represented in the selection process. On one hand, candidates who take too radical approach will be screened out in this election. On the other hand, because two candidates will enter into the final election, those who take a too conservative, pro establishment approach may probably lose in the final election because 30% of the voters are elected officials. This helps encourage the political actors to take a 'consensual' approach.

1.5.5 Compare with present arrangement, the Chief Executive so elected will enjoy a higher degree of popular mandate because the percentage of elected official in the election committee will be increased from about 15% to 30%.

1.5.6 Granting the District Board members a much significant role in the nomination and election process will encourage citizens to participate more actively in the District Board election and help to encourage the District Board members participate more actively the political works.

## 2. Method of selecting Legco members

### 2.1 Limitation of Term

2.2.1 Currently we do not have any limitation of terms. In fact, this is an issue shared by many democratic countries nowadays because without a limitation of term, new faces can hardly come into the legislature as elections usually favor existing member in the Legislature. A Legislature with few new faces tends to be slow in action, avoiding changes and out of touch with the general public. Actually, limitation of term is imposed in 23 states of the states legislature in the United States.

2.1.2 As the democracy in Hong Kong is still at the 'infant' stage. It is important to attract more talents to join the legislature so as to give future political leaders enough opportunities to practice. History of HKSAR past three elections shows that there is a very high rate of existing Legco member being re-elected and a very low successful rate for the 'second tier' or 'new faces' in the election (except those come from the media, or media-friendly occupation, like Senior Counsels) This is not a healthy development. On one hand, a low successful rate in election forces those 'second tiers' flight very aggressively for universal suffrage to be held asap, regardless of the prevailing social situation and limitations because if no new seats are available in the Legco, their political future is bleak. On the other hand, without limitation of term, there is less incentive for the 'old guards' to devote more time and energy in 'nurturing' their second tier. This all lead to lack of high quality political actors in the HKSAR.

2.1.3 Therefore, the HKSAR should consider imposing a limitation of term for the Legco members. Upon completion of a consecutive service of three terms, a Legco member must take a 'break' of at least one term. During this one term 'break', a monthly allowance of HK\$40,000 will be given so as to maintain their minimum living standard and expenses for political activities, then these 'old guards' may spend the coming four years in nurturing the 'second tier', or to refresh themselves. After that, he or she can run for election again.

2.1.4 However, in view of the reality that more than 60% of present Legco members have already served two terms, it is impractically to impose the limitation of term in the 2008 election. Therefore, we can make it known that the limitation will be effective in the 2012 election, those affected could consider if they should participate in the 2008 election or to 'take a break' and run for election again in 2012.

2.1.5 To encourage those 'experienced' Legco members to give way to the 'New faces' or 'Second tier'. We can reserve some seats in the 'Functional constituency' for these 'experienced' Legco members. Details discussed in 2.2.4.7 below.

## 2.2 Functional constituency

2.2.1 To increase from 30 seats to 40 seats. Keep the constituencies of present 30 seats unchanged. Some of the new seats should be elected by professionals whose income will remain mainly from HK and has lesser tendency to divert their investments to other places.

### 2.2.2 Arguments:

As explained in 1.5.1 above, to ensure stability of the society, it is important to ensure the future well being of the ruling elites and the general public are bound together. Therefore, when electing the Legco members, we should favor those elites whose incomes are and will remain to be severely affected by the stability and prosperity of Hong Kong.

In Western European Countries, the officials of political parties play a significant role in 'screening' candidates for elections. Because political party officials are usually 'localized', rather than 'internationalized' in nature and their incomes come from the local communities, therefore, it is of their benefit to select candidates stand firm on 'domestic' interest.

For United States, because party structure is loose, there is no limit on campaign financing and election campaign involves big amount of expenses, therefore, the capitalists are in fact the major participants in the 'screening' process. As U.S. economy relies heavily on consumer spending. Capitalists tend to support candidates who are able to make the domestic economy prosper, that means the well being of general public is safeguarded.

History shows that for those economies rely heavily on export, if the leaders who hold the highest offices rely too much support from industrialist or traders, the result tends to be bad for the general public, like Germany and Japan before WWII, India, Philippines and some South American countries.

### 2.2.3 Provision Regarding Nationality of Legco member

One of the basic principle of successful democracy is that the officials so elected should of the same nationality or come from the same society of the citizens they represent, so as to ensure the elected officials stand for the interest of the citizens. Allowing people who have right of abode in other countries to participate in the Legco election in fact violate that basic principle. Actually, all major democracies do not allow 'foreigners' to participate in elections. Therefore, we should not allow those people who are not of Chinese nationality or who have right of abode in foreign to participate in elections for any newly created seats in the functional constituency.

### 2.2.4 Compositions of new seats to be created:

2.2.4.1 One seat for the 'Local economy One' functional constituency, which shall compose of three sectors:

Sector	No. of voters
Catering	5655
Wholesale and Retail	1635 + 1525
Tourism	779

#### 2.2.4.1.1 Method of voting and counting ballots

Every voters cast one vote in his own sector, counting of vote shall base on 'first past the post' basis. Winner will be determined by the following sequence:

1. A candidate who won in two or more sectors.
2. A candidate who won in one sector and is a second runners up in the other two sectors.
3. The candidate who won in one sector and is a second runners up in another sector and a third runners up in another sector. If there are more than one such candidate, then count the 'accumulated percentage' in the two sectors which he / she has not won. 'accumulated percentage' means the summation of the percentage of votes the candidate has gotten in different sectors. For example, one candidate won in the catering sector, got 45% of vote in the 'wholesale and retail' sector and 30% votes in the tourism sector, his 'accumulate percentage' shall be  $30+45 = 75$

The purpose of counting vote this way is to encourage candidates consider

political issues on a 'Cross Strata' perspective, that means, to consider interest of people from different walk of life. Designing such a constituency is for not for electing elites to fight for his professional interest, but for choosing elites who tends to consider the benefit of the society as a whole. Candidates take 'consensual' approach are favored under this voting system. This also paves way for future migration to universal suffrage in the Legco.

2.2.4.1.2 The Government should consider how to include more companies in the voter list of the Wholesale and Retail, for example, to include them according to nature of business stated in their business registration. According to statistics published by the HKSAR Government in 2002, there are totally about 70,000 wholesale and retail establishment in HK. Presently only a very low percentage of establishments in this sector are included the voter list.

2.2.4.2 One seat for the 'Engineering Professions' functional constituency, which shall compose of three sectors:

Sector	No. of voters
Architectural & Surveying	4437
Engineering	5793
Information Technology	189 + 3626

Method of voting and counting ballots similar to 2.2.4.1.1

2.2.4.3. One seat for the 'Profession Service' functional constituency, which shall compose of four sectors:

Sector	No. of voters
Education	62546
Accountancy	13151
Legal	4487
Health Service	28737

Method of voting and counting ballots similar to 2.2.4.1.1

2.2.4.4 One seat for the 'Local Economy Two' functional constituency, which shall



compose of four sectors:

Sector	No. of voters
Finance and Insurance	141 + 153
Hotel and Transport	88 + 151
Real Estate and Construction	408 + 286
Financial Service	451 + 50

Method of voting and counting ballots similar to 2.2.4.1.1

2.2.4.5 One seat for the 'Profession Service Two' functional constituency, which shall compose of three sectors:

Sector	No. of voters
Medical	7380
Social Welfare	7319
Higher education	3969

Method of voting and counting ballots similar to 2.2.4.1.1

2.2.4.6 One seat for the 'Public Bodies' which shall compose of 'institutions' from the following fields:

Public Utilities, Public Organizations, Professional Associations, Not for profit Organizations (for example, member of the Community Chest)  
Tertiary Educational Institutes

Only institutional voters can vote.

2.2.4.7 A 'Legco' functional consistency of four seats for the Legco members which have consecutively served three terms (excluding the Provisional Legco) to compete for. Those elected in this 'Legco' functional Consistency will be treated as having taken a one term 'break' according to the rules of limitation of term which have been discussed in 2.1 above, for the 2012 election. That means, they can run for the 2012 election.

#### 2.2.4.7.1 Method of voting and casting of ballot for these four seats

Each past session Legco member cast four votes to four different candidates in close ballot to achieve a 'proportional' effect. Casting of ballot by FPTP.

#### 2.2.4.7.2 Arguments:

In many Western democracies, there are seats in the Senate to be elected by members in the 'Lower House'. In HK, the 'functional constituency' in fact to a certain extent, serves role of a Senate. The four seats now recommended mean similar things.

Creation of these four seats serves following purposes:

1. To encourage the experienced Legco members to give way to the 'New faces' or 'Second Tier' in the 2008 election.
2. As these seats are to be elected in close ballot, party discipline could not be enforced. Those Legco members whose 'peers' like most stand higher chance to be elected. This arrangement favors candidates take 'consensual' approach instead of 'adversity' approach. HKSAR's Chief Executive and Legco members come from different elections and the leader of the majority party in the legislature does not form the Government. For a Government to succeed under such system, it is essential that members in the Legislature take a 'consensual' instead of 'adversity' approach.
3. Experienced Legco members who are willing to help the new comers stand a higher chance to win the seat. This helps 'nurturing' more political leaders.

### 2.3 Geographical Constituencies

#### 2.3.1 Changes recommended includes:

2.3.1.1 To increase seats to 40.

2.3.1.2 To divide the constituencies to smaller ones, increase no. of constituencies from presently five to ten. Each constituency shall have four seats.

2.3.1.3 When dividing the constituencies, it need not base strictly on geographic

boundaries. Social characteristics may also be considered as a factor. Hong Kong Island can be divided into Hong Kong One and Hong Kong Two, instead of simply Hong Kong East and Hong Kong West. For example, Aberdeen and Shauiwan can fall into the same constituencies while Mid level Central, West and East can fall into another constituencies.

2.3.1.4 Maintain the present ballot counting method of Proportional Representative, maximum remainder and Hare Quota.

2.3.1.5 Use 'cumulation' voting method. This means multiple votes for each voters who can give more than one votes to the same candidate. For example, each voter have two votes (four votes may be too complicated for the 2008 elections)

2.3.1.6 Use 'apparentement' to allow smaller candidates to form a 'block' when counting votes, so as to increase their chance of winning. In a 'winning' block, the candidate who gets the highest votes becomes elected. In case that 'winning block' wins so much votes that it enters into the second round when counting the ballot, the candidate get the second highest vote may also be elected. This is different with the present 'close list system' which voters can not state his preference, those 'second tier' members are usually on the rear end of the list while the 'star' candidates are usually on the front, the 'second tier' smaller candidates then stand a very low chance in getting elected. However, the present 'close list system' can still be maintained.

2.3.1.7 Arguments:

2.3.1.7.1 Compare with parliaments in other democracies, HKSAR's Legco member to population ratio is in fact extremely low, especially when taking into account that only half the seats are directly elected. A low ratio means that it is difficult for the candidates to develop strong personal bonding with citizens in his / her constituencies. This does not help to improve the sense of participation in public affairs for the citizen.

Selected Parliaments of Nations with population below 10 million, all are using PR method in counting ballots, except Singapore:

Country	Total seats	No. of constituencies	Population (mil)	Year
Austria	183	9	7.8	1995
Belgium	150	20	9.9	1995

Czech	200	8	10	1998
Denmark	135	17	5.3	1998
Finland	200	14	5.0	1995
Ireland	166	41	3.6	1997
Norway	157	19	4.3	1997
Switzerland	195	21	6.8	1995
Singapore	83	24	4	1997

*Source: International Encyclopedia of Elections, Macmillian Publication*

2.3.1.7.2 Creating more seats will allow more people participate, hence helps to nurture future political leaders from a larger pool of talents.

2.3.1.7.3 Present 30 seats put a constraint to the total no. of constituencies in HKSAR. Under a proportional representative election system, the effect of 'proportional representation' is obvious if there are only three or four seats in the constituencies. The election result in Kowloon West has demonstrated this.

2.3.1.7.4 In past three elections, HKSAR was divided to only five constituencies and each constituency has about 600,000 to 900,000 voters. It is simply too large, either in terms of geographical or population size for political actors to build bonding with the citizens through personal contact. Because of this reason, political actors rely much on exposure in the media for helping them to win the election and they tends to talk more about 'ideological' and 'identity' issues, rather than issues which really affect the daily life of people. (Before 1997, the constituencies were smaller, political actors therefore has spent more time on some daily or 'district' issues) In order to make the media reporting them, they tend to take aggressive 'gestures, which is usually anti-government, instead of making any practical recommendations. This does not help to improve the quality of policy debate.

2.3.1.7.5 Limitation in campaign funding is imposed in Hong Kong and political TV advertisement is not allowed. Therefore, political actors rely heavily on the 'free advertisements', that means 'reports' of the mass media to keep public aware of them. According to research done by Dr. Lau Siu Kai, HK people tend not to discuss politics with friend, relative, etc and rely solely on the mass media for information on politics. This 'apolitical' characteristic makes HK people easily manipulated by the mass media. Furthermore, development of political party in the HKSAR is still at 'infant stage' and the capitalists do not have much influence in 'screening' candidates

because of limitation in campaign funding. This means, 'mass media oligarchs' has become a dominant force in determining the political future of a candidate, especially those new candidates who have not established a favorable image in the public before 1997. In fact, the 100% successful rate of new candidates coming from the professions of mass media and Senior Counsel in this year election clearly supported this hypothesis. (Senior Counsels are 'media friendly' because Barristers monopolize the right of advocacy in Higher Courts and defamation cases usually involve large amount of claim. Defamation cases call for Jury participation and a 'popular' Senior Counsel stands a higher chance in convincing the Jury that the respondent is innocent.). This is an unfair and unhealthy situation.

2.3.1.7.6 The above situation in fact encourages 'co-opt' between mass media and candidates of direct elections. Mass media needs 'big news' to attract readers, direct election candidates need mass media reporting them to maintain their 'exposure' in the 'market'. Politicians then create 'big news' to 'feed' the media. Under the current practice that Legco member's role is mainly on passing bills and monitoring the Government, the news they so created are therefore tends to be anti-government in nature. This increases the difficulties of the Government in promulgating its policy through mass media and the mass media is full for 'bad' stories depressing people which make the atmosphere very pessimistic. The whole society then became very weak in fighting the downturn.

2.3.1.7.7 Addressing the above problem, we must adjust the election system so as to weaken the significance of mass media in making voters aware of the political actors. In a smaller constituency, more personal contact with voters and developing closer personal bonding with voters will become important for a candidate to win an election. This will also provide the Government an opportunity to rebuild constructive relationship with the media as the bonding between the media and the Legco members who rely on criticizing Government to win votes weaken.

2.3.1.7.8 By employing 'cumulation' and 'apparentement' methods, we can keep the 'proportional' characteristics eventhough seats in each constituencies are reduced to four because the votes will tend to be disperser than before,. It also encourages potential candidates to cultivate 'loyalist' among voters through closer personal contacts and service. This favor political actors stand firmly for minority interests and they need not rely too much support from the 'star' candidates.

2.3.1.7.9 The above suggestions helps to shift the political dynamic from

'ideological driven' to 'district issue or group issue driven'. The society then has a much better environment to discuss and study how to sort important things out. On one hand, the Government will not be the sole target of criticism as it is most easy to pick the Government as scapegoat on those 'Pan-SAR' issues. On the other hand, the Government could act as 'mediator' on some issues involving conflict between different groups which the Legco members will change to focus on.

2.3.1.7.10 In the United States, some constituencies in a State are not strictly divided according to geographical boundaries, certain parts of a constituency may be separated geographically by an area of another constituency. In Hong Kong, if we can 'move' some area to another constituencies, for example, merge Aberdeen with Shauiwan, we can group some districts of similar social or 'class' characteristics together, so as to encourage a 'specialization' of the political actors. Directly elected Legco members can therefore have some clearer 'class' issues to work on and need not just concentrate on those 'Pan-SAR' or even regional or national issues so as to appeal to 'all the classes'. Furthermore, more choices of candidates will be available to voters to suit with their different demands.

Proposer: Ng Dick Hay

Contact:

Date: 29.9.2004