



15 February 2005

Members of the Panel on Constitutional Affairs
Constitutional Panel
Hong Kong Legislative Council
Jackson Road
Hong Kong

Dear Members,

**Re: Submission on Methods for Selecting the Chief Executive in 2007 and for forming the
Legislative Council in 2008**

Thank you for the invitation to present views on the methods for selecting the Chief Executive (CE) in 2007 (including the composition and operation of the Election Committee) and for forming the Legislative Council (LegCo) in 2008.

We would like to submit the following views:

a) On the Method for Selecting the Chief Executive in 2007

The constitutional mission of the Basic Law is clear that the "ultimate aim" is to achieve universal suffrage, there has to be determined movement towards that direction on each and every available occasion. Despite the SCNPC decided that 2007 would not be the right time, it may be argued that the acknowledgement did imply that there should be an attempt made for the Hong Kong to achieve universal suffrage the next time, that is in 2011. Therefore, adjustments made in 2007 must have the effect of moving the election system towards universal and equal suffrage.

With this principle in mind, we suggest that the Election Committee be made as large as possible and in any event not less than 5,000 people and this Committee will be changed into a Nominating Committee. Furthermore, we believe the voter base should be much larger as it should be a significant step towards achieving universal suffrage.

For the Nominating Committee members, apart from the ex-officio members, such as members of the LegCo, Hong Kong deputies to the NPC and Hong Kong deputies to the CPPCC, the other members can be chosen at random based on each of the District Council constituencies. On this basis, people from all sectors of society will be included and this method can accommodate the selection of 5,000 people. For the voter base, the same random selection process can be used to select 500,000 relatively easily.

With regard to the number of people needed to nominate candidates standing for CE, the principle should be to keep it relatively small to encourage competition. According to the suggestion we made above, a candidate needs 250 Nominating Committee members and 2,500 registered voters in order to qualify to stand.

b) On the Method for Forming the Legislative Council in 2008

We believe the argument we made in relation to the CE election in 2007 also applies here because the Basic Law also provides that the "ultimate aim" is for all LegCo members to be directly elected. Thus, whatever steps are taken for the 2008 election, they must be aimed at achieving universal and equal suffrage by 2012.

To move towards universal and equal suffrage, increasing the number of legislators is not essential. The real issue involved is the representativeness of the elected legislators from functional constituencies. The size and the composition of the functional constituencies are problematic. Some of the functional constituencies have fewer than 200 voters. Some of the electors are not even humans but corporate bodies.

We believe 2008 presents an opportunity for Hong Kong to revamp functional constituencies significantly towards the direction of universal and equal suffrage. The guiding principles for reform should be to:

- (a) Do away with corporate voters altogether as this system provides little transparency and votes for legislators should never have been given to non-humans;
- (b) Ensure all functional constituencies have no less than a sizable number of human voters to encourage competition [5,000 in our view may be regarded as a sizable number]; and
- (c) Ensure the determination of who qualifies as a voter should not be handed over to some corporate bodies as it is today in situations where corporations are allowed to vote, or in mixed constituencies where corporations and some individuals are entitled to vote.

Indeed, Civic Exchange sees the functional constituency election system as a major issue Hong Kong needs to resolve in order to move towards universal suffrage. We have already highlighted this matter in our last submission to you and the relevant reports published so far by us have already been sent to Members. We enclose here a copy of another research report, entitled *The Dynamic of Social Policy-making in Hong Kong: The Role of Functional Representatives (1998-2004)*. This report looks at the role of functional constituency members through examining their performance records. Civic Exchange is currently conducting other research into the functional constituencies and we will be sending you our reports as and when they are completed.

Thank you.

Yours sincerely,

(Signed)

Christine Loh
Chief Executive Officer

Encl.

(Editor's Note: The sender submitted this paper, which was discussed at the meeting of the Legislative Council Panel on Constitutional Affairs on 19.2.2005, to the Task Force as a submission in response to the Fourth Report. The submission encloses a research report entitled "The Dynamics of Social Policy-making in Hong Kong: The Role of Functional Representatives 1998-2004." In view of its volume, the research report is not reproduced in this Appendix. Copies of the research report have been deposited with the District Offices of the Home Affairs Department at Wan Chai, Yau Tsim Mong, Kwun Tong, Sha Tin and Tsuen Wan for public reference.)