



14 January 2005

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

Dear Members,

**Re: Submission on Political Structure:
Functional Constituencies**

Thank you for the invitation to attend your special meeting on 15 January 2005 to present views on issues relating to Hong Kong's current political structure and the implications on good governance, executive-legislative relations, and the role of the civil service. Unfortunately, we are not able to attend personally but we hope this written submission will be useful.

Civic Exchange is a non-partisan, non-profit think tank. We have published extensively on issues relating to Hong Kong's political structure, especially in relations to functional constituencies as well as the current geographical election system. We have a substantial research and publication programme for 2005 on various issues relating to the current political structure and we will ensure that Members will receive new publications in due course.

We believe a society's political structure is crucial to its overall health as it provides the foundation for it to develop. How our political system is structured affects the way the people interact with the government. Where the system is deficient, the civil sector-government relation is bound to be negatively affected. Civic Exchange's study on Hong Kong's political structure showed that one fundamental problem that lies at the heart of our political structure is the Functional Constituencies (FCs). We would like to bring our research to Members' attention.

The prevailing justification for the FCs system rests on two assumptions: that without it, business and other sectoral interests will not find substantial representation in LegCo; and that substantial representation of such interests is integral to safeguarding Hong Kong's "capitalist economy" and prosperity and stability.

Without debating whether these justifications were valid in 1985 when FCs were first created, it is essential to ask today whether they are valid as Hong Kong goes forward with considering further reform to the political system. Please refer to pages 50-57 of *A Critical Introduction to Hong Kong's Function Constituencies* (Appendix A) for a summary of our research findings on the FCs system.

We note from the Standing Committee of the National People's Congress's decision in April 2004 that the Central People's Government is unready for FCs to give way to universal suffrage at the next LegCo election. We hope that the reform ideas in the abovementioned report will be useful to Members in thinking through how the FCs system may nevertheless be reformed to give Hong Kong's electoral system greater credibility.

As to whether FCs contribute to the maintenance of the "capitalist economy" and prosperity and stability, our early research shows that the FCs system appears to be deficient in meeting Hong Kong's current day needs. Quantitative studies of FCs voting records show that while FCs representatives were very active in posing sectorally-relevant questions, moving corresponding motions as well as taking part in panel and bills committees deliberations, their activism appears to have been closely linked to their direct sectoral interests. Overall, their interest in non-sectorally relevant issues was at best lukewarm. We are about to publish these findings in a report entitled *The Dynamic of Social Policy-making in Hong Kong: The Role of Functional Representation (1998-2004)* and as soon as we do, we will send Members the full study.

The FCs system has had an effect on the maintenance of the socio-economic status quo in Hong Kong. The enclosed report, *Government and Business Alliance: Hong Kong's Functional Constituencies* (Appendix B), provides the historical background to the previous colonial governance system from which FCs were first conceived and developed. However, with the growing impact of universal education since the late 1970s and the public's increasing political awareness, the activism of the FCs to keep their privileges within an outdated status quo may well be a factor in contributing to social disharmony in Hong Kong. Within Hong Kong's current political system, the "capitalist" economic system that is being preserved is one that favours established interests in various sectors rather than to encourage a more open and competitive system where new entrants can enjoy a level playing field. The overt favouring of status quo interests within the political system has potentially a negative impact on prosperity and stability as it entrenches existing interests and makes it much harder for other interests to compete on an equal footing in socio-economic decision-making within the political system thereby creating among those without functional representation a sense of unfairness. Furthermore, there is also evidence that among functional sectors, their various interests can come into conflict, which is another reason for social disharmony.

For the sake of completeness, we also enclose *Functional Constituencies: The Legal Perspective* (Appendix C), which discusses the legal issues surround the FCs system.

Thank you.

Yours sincerely,

(Signed)

Christine Loh
Chief Executive Officer

(Editor's Note: The sender submitted this paper, which was discussed at the meeting of the Legislative Council Panel on Constitutional Affairs on 15.1.2005, to the Task Force as a submission in response to the Fourth Report. In view of their volume, Appendices A-C of this submission are not reproduced in this Appendix. Copies of the Appendices A-C 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. They can also be accessed at www.civic-exchange.org.)