

## Brief for the New Governor

### Constitutional Development III : Electoral Review and Convergence Issues

#### Electoral Review

As explained in Brief I (Developments of LegCo), our political system has undergone fundamental changes since 1984 with reviews being done in 1984 and 1987, and with new decisions regarding the composition of LegCo being made as recently as 1990. Similarly, significant constitutional changes will take place not only in 1995 but also in 1999 and 2003 (as provided for in the Basic Law (BL)). Against this background, Government undertook before the 1991 elections that a review would be conducted on the whole range of arrangements in the light of the first LegCo direct elections.

2. The review is to be completed in mid-1992 and will cover :

- (a) establishment of an independent boundary and election commission;
- (b) criteria for demarcating electoral boundaries;
- (c) system of voting in geographical constituencies;
- (d) minimum voting age;

- (e) disqualifications of electors and candidates;
- (f) arrangements for functional constituency elections;
- (g) voter registration system;
- (h) updating of voter register;
- (i) absentee voting; and
- (j) election arrangements in general.

3. In examining the above, we have been mindful of the various BL requirements and provisions for the political structure post-1997. If the 1995 LegCo is to be a "through-train", it will need to be fully elected (20 directly elected; 30 elected by functional constituencies (FCs); and 10 from an Election Committee (EC)) with the president elected amongst the members. (BL also provides that in 1999 there shall be 24 directly elected and 6 EC seats; as from 2003, there shall be 30 directly elected seats and 30 functional FCs seats.)

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(a) System of voting

As a preliminary step, we have raised with the LegCo Select Committee tasked to conduct a similar review the following options :

- (i) Status quo (i.e. double-seat/double-vote)
- (ii) Double-seat/single non-transferable vote
- (iii) Single-seat/single-vote
- (iv) Double-seat/single-preferential vote
- (v) Multi-seat with some form of PR voting

Debates in this area have just started with each political group going for the system which, they believe, would work in their favour. Some members of the pro-China camp and the Cooperation Resources Centre (CRC) have indicated support for double-seat/single-vote (with a view to removing the "coat-tail" effect which is generally believed to have helped the United Democrats of Hong Kong (UDHK) considerably in their victory).

Understandably, UDHK and other liberals have argued that the present system should be maintained. They are however prepared to accept single-seat/single vote.

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(c) Election Committee

To conform with the Basic Law's prescription for the first SAR legislature, 10 LegCo members will need to be returned by an Election Committee (EC). The BL is silent on its composition and we are exploring various options such as : (i) the EC to mirror the 400-member Selection Committee to be set up in 1996 for the selection of the first Chief Executive (Annex I, BL); (ii) the EC to mirror the 800-member Election Committee for the second SAR LegCo (Annex II, BL); or (iii) the EC

to comprise all incoming elected members of District Boards (DBs), Municipal Councils (MCs) and LegCo.

(d) HK Deputies to the Chinese National People's Congress (NPC)

Under present electoral laws, the above category of people are debarred from standing for elections as they are virtually members of a political assembly outside HK (the NPC being the equivalent of a parliament). The Chinese as well as local politicians have openly indicated that this restriction should be relaxed for the 1995 elections to facilitate the "through-train" arrangement. While a case could probably be made for this to be done before 1997, such an arrangement could lead to a further request that Hong Kong Deputies to the NPC should form a FC in 1995.

6. The challenge in all this is that whatever proposed arrangements we come up with would need to be acceptable to LegCo, the Parliament, and the Chinese.

Government.

### Time-table

7. Given the need to legislate for the many constitutional changes that have to be put in place before the next cycle of elections in 1994/95, timing is critical. A time-table for taking forward the major issues is at the Annex. We do not however need to take any major decision before September this year. It would take time to consult ExCo on these complex matters, some of which may



involve re-submissions. In any case, it would be unwise for us to start talking to the Chinese until they have had their 14th Party Congress in October/November this year. At least we should have a clearer idea by then as to whom we should be talking to.

[REDACTED]

Constitutional Affairs Branch

May 1992