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Submission in respect of CONSTITUTIONAL DEVELOPMENT and the PROPOSED COMPREHENSIVE PACKAGE OF CONSTITUTIONAL REFORMS following publication of the FOURTH REPORT of the Constitutional Development Task Force

Submitted by Nicholas and Margaret Brooke
(e-mail:)

METHOD FOR SELECTING THE CHIEF EXECUTIVE IN 2007

1. The number of members of the Election Committee

We would be happy to agree, in principle, to an increase in the numbers and that this should form the basis of the next stage of discussion.

As to the actual number, the principle should be to ensure that the Committee is more representative than at present so as to increase its credibility and legitimacy and serve as a transition arrangement leading to universal suffrage.

2. The Composition of the Election Committee

We remain of the view that it may be pragmatic and realistic to maintain to 4 existing sectors while increasing the numbers in each and adding a fifth sector, being all those already in representational positions (e.g. LEGCO members, representatives of the Heung Yee Kuk, NPCC Deputies and CPPCC members). This would give a total of 1758 Committee members.

3. The number of members of the Election Committee required for nominating candidates for the office of Chief Executive

We consider that, while the threshold should be of a level which shows reasonable support for the candidate, one eighth is too high and that 5% of the total number of members of the Election Committee would be adequate and permit a wider number of candidates to stand.

We do not consider that candidates should need to show a minimum level of support in each sector – we are not in favour of proportional representation in elections.

An upper limit should be set which is not more than 10% of the total number of members of the Election Committee.

4. Delineation and size of the Electorate of the Election Committee

If there is no change in the basic make up of the Election Committee (merely increased numbers), then the electorate would also remain fairly static, except in so far as any replacement of corporate to individual voting is concerned. If there is to be an increase in

the delineation of the electorate, then the principle should be to broaden its scope and representation; however, we see the potential for significant controversy as to what additional subsectors should be included and, in view of the ultimate move towards election of the Chief Executive by universal suffrage, we believe that any attempt to widen the delineation may not be in the best interests of the constitutional reform programme.

Corporate voting as currently structured should be revised so that votes may only be cast by a parent company (i.e. not its subsidiaries e.g. wholly owned subsidiaries or companies in which the parent or holding company owns more than 50% of the shares) or independent companies that are not part of a group. In the interest of widening the voter base, it would be preferable to introduce individual votes but it is very difficult to see how this could be done in a way which is any more equitable than the current system unless the Commercial subsectors are completely restructured or abolished. This is by no means an ideal solution as it still means some people have two votes while others only have one, but this should be considered as an interim step towards universal suffrage and in order to prevent abuse of the corporate voting system.

5. Others

5a. We consider that the community should consider whether the Chief Executive should be permitted to have a political affiliation prior to election. Such an affiliation should clearly not be mandatory and should be abrogated upon election so as to avoid conflict of interest but such affiliation may well be advisable so as to ensure that future candidates for the post have the necessary political experience to manage the processes of Government successfully.

5b. In our view, it is imperative to the smooth governance of Hong Kong over the next few years that a timetable for selecting the Chief Executive by universal suffrage be set, with 2011 being our preferred date.

METHOD FOR FORMING THE LEGISLATIVE COUNCIL IN 2008

1. The number of seats in the Legislative Council

If a timetable could be set whereby the Legislative Council could be elected by universal suffrage in 2012, there would be little cause to change the number of seats in 2008 as this would conflict with the ultimate aim and also be an unjustifiable cost in both organisational and monetary terms.

If there is no timetable, then we consider that public opinion will harden in favour of an increased number of seats. The principle should be to widen representation, particularly in the geographic constituencies.

2. The number of seats returned by Geographic Constituencies through direct elections

The principle should be to widen representation – the current constituencies are too large and the proportional representation system currently adopted does not reflect the real opinion of the electorate but merely supports what many see as the Administration's wish to limit electoral and constitutional reform so as to ensure the place of the functional constituencies/business sector in LEGCO.

3. The number of seats returned by Functional Constituencies

Increasing the number of Functional Constituencies will be extremely difficult as every industry, service and social group will consider they have a claim to a seat. We are of the view that this proposal may prove to be a divisive debate. The setting of a timetable for universal suffrage, particularly if this is 2012 may well preclude the need to make any changes in the structure of LEGCO and so avoid further controversy.

4. The delineation and size of the electorate of Functional Constituencies

We are not in favour of an increased number of such constituencies but do favour the elimination of corporate votes and their allocation to the employees of those companies currently eligible to vote.

5. Provision regarding nationality of Legislative Council Members

We are not in favour of any change – once there is universal suffrage and, assuming that functional constituencies will not then exist, this provision will not be relevant.

6. Others

We consider that the long term future of Functional Constituencies should be examined and that different forms of universal suffrage should be explored. It is also important to set a timetable for electing all Legislative Council members through universal suffrage in order to give comfort to the many people in Hong Kong who believe that this should have been achieved in 2007/08 that there will not be further delays and to allow the Administration and the community to concentrate on other issues which are of importance to Hong Kong.

The real community interest in participating in the decisions that are made on Hong Kong's future which has grown steadily since 1997 cannot be turned back. Ideally, it is clear that the Central Government would prefer to delay matters and there is no doubt that the grant of constitutional reform and universal suffrage in Hong Kong, even in 2001/2012, would cause them difficulties. However, the open ended undertaking as set out in the Basic Law is no longer viable and the longer a firm timetable is delayed, the greater the confrontational politics now seen in Hong Kong will become, until all efforts

by the Administration, whether this one or the one which comes to office in 2007/2008, will be stymied. It would be far better to see people engaged positively in taking Hong Kong forward rather than reacting, usually negatively, to most proposals. This, of course, is one of the results of executive led government and any Administration will have to learn to consult before forming policies, rather than presenting them as fait accompli if any real progress is to be made and Hong Kong is to regain its former confidence and spirit.