

LCQ1: Methods for selecting the Chief Executive in 2022 and for forming the Legislative Council in 2020

Following is a question by the Hon James To and a reply by the Secretary for Constitutional and Mainland Affairs, Mr Patrick Nip, in the Legislative Council today (January 9):

Question:

The General Secretary of the Central Committee of the Communist Party of China (CPC) pointed out in a report delivered at the 19th CPC National Congress that well-ordered steps must be taken to advance democracy in Hong Kong SAR. Besides, Articles 45 and 68 of the Basic Law stipulate that the ultimate aim of selecting the Chief Executive (CE) and electing all the members of the Legislative Council (LegCo) by universal suffrage (dual universal suffrage) shall be achieved in the light of the actual situation in Hong Kong SAR and in accordance with the principle of gradual and orderly progress. In December 2013, which was 33 months away from the general election for the Sixth LegCo, the Government launched public consultations on the methods for selecting CE in 2017 and for forming LegCo in 2016. Given that the general election for the Seventh LegCo is only 20 months away from now, will the Government inform this Council:

(1) whether it will consider afresh launching expeditiously public consultations on the methods for selecting CE in 2022 and for forming LegCo in 2020, as well as commencing the "Five-step Process"; if so, whether it has assessed if there is sufficient time for the relevant work to be taken; if it will not, whether it has assessed if this will run counter to the spirit of the aforesaid remarks and to the ultimate aim of dual universal suffrage being achieved in Hong Kong SAR as stipulated in the Basic Law; and

(2) whether CE, during her duty visit to Beijing on the 17th of last month, discussed with leaders of the Central Authorities issues relating to constitutional reform of Hong Kong SAR; if so, of the details; if not, the reasons for that?

Reply:

President,

Article 45 of the Basic Law stipulates that the method for selecting the Chief Executive (CE) of the Hong Kong Special Administrative Region (HKSAR) shall be specified in the light of the actual situation in the HKSAR and in accordance with the principle of gradual and orderly progress, and that the ultimate aim is the selection of the CE by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures. Article 68 of the Basic Law stipulates that the

method for forming the Legislative Council (LegCo) shall be specified in the light of the actual situation in the HKSAR and in accordance with the principle of gradual and orderly progress, and that the ultimate aim is the election of all the members of the LegCo by universal suffrage. According to the "Interpretation by the Standing Committee of the National People's Congress of Article 7 of Annex I and Article III of Annex II to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China" (the Interpretation) adopted by the Standing Committee of the National People's Congress (NPCSC) on April 6, 2004, a "Five-step Process" must be followed if there is a need to amend the methods prescribed in the Annexes to the Basic Law for selecting the CE and forming the LegCo. The five steps are: the CE to make a report to the NPCSC on whether any amendment is necessary; the NPCSC to make a determination on whether to make any amendment based on Articles 45 and 68 of the Basic Law in the light of the actual situation in the HKSAR and in accordance with the principle of gradual and orderly progress; the amendment to be passed by a two-thirds majority of all LegCo members; the CE to grant his/her consent; and a report to be made to the NPCSC for approval or for the record.

Since the establishment of the HKSAR, the methods for selecting the CE and for forming the LegCo have been developing towards the ultimate aim of universal suffrage in a gradual and orderly manner and in light of the actual situation of the HKSAR as stipulated in the Basic Law. The method for selecting of CE has evolved from the nomination and election by a Selection Committee with 400 members for the first-term CE to the present Election Committee of 1,200 members. As for LegCo, the number of members has been increased from 60 for the first-term LegCo to 70 today, and the number of seats returned from direct Geographical Constituencies election has been increased from 20 in 1998 to 35 now. Moreover, the five new Functional Constituency (FC) seats created in 2012 return members through election on the basis of one-person-one-vote by some 3.2 million registered voters who previously did not have a vote in the traditional FC.

My reply to the question raised by the Hon James To is as follows:

(1) Universal suffrage of "one person, one vote" for selecting the CE and electing all LegCo members is enshrined as an ultimate aim in the Basic Law. With this aim in mind, the HKSAR Government of the previous term conducted two rounds of extensive and systematic public consultations spanning seven months in total before putting forward a universal suffrage package for selecting the CE which is constitutionally in order, lawful, reasonable and rational, and on June 2, 2015 moved at the LegCo a motion to amend Annex I to the Basic Law concerning the method for the selection of the CE. Unfortunately, the motion was voted down at the LegCo meeting on June 18, 2015 as it did not obtain support from a two-thirds majority of all members of the LegCo. According to the "Decision of the Standing Committee of the National People's Congress on Issues Relating to the Selection of the Chief Executive of the Hong Kong Special Administrative Region by Universal Suffrage and on the Method for Forming the Legislative Council of the Hong Kong Special Administrative Region in the Year 2016" (the Decision) adopted by the NPCSC on August 31, 2014, if the specific method of universal suffrage

for selecting the CE is not adopted in accordance with legal procedures, the method used for selecting the CE for the preceding term shall continue to apply. Hence, the method used for selecting the Fourth Term CE in 2012 continued to apply to the selection of the Fifth Term CE in 2017, which means that the CE continued to be elected by a 1200-member Election Committee.

According to clause 2 of the Interpretation, the methods for selecting the CE and forming the LegCo may be amended or remain unamended. For any amendment to be implemented in the methods for selecting the CE and forming the LegCo, tripartite consensus among LegCo members, the CE and the NPCSC is required. The HKSAR Government fully understands the aspirations of the community for universal suffrage. Regrettably, universal suffrage of "one person, one vote" was unable to be secured despite 20 months of efforts by the previous term of Government. Rashly starting discussions on political reform will lead to social conflicts, or may even lead to some people resorting to extreme actions, thus seriously affecting the economic and social development of Hong Kong. Rather than acting rashly, it is imperative for the HKSAR Government to prudently consider all related factors, size up the situation, seek consensus, and do the best to work towards creating a favourable atmosphere to take forward political reform.

On the method for forming the LegCo, it is also stipulated in the Decision that "after the election of the CE by universal suffrage, the election of all the members of the LegCo of the HKSAR may be implemented by the method of universal suffrage. At an appropriate time prior to the election of the LegCo by universal suffrage, the CE elected by universal suffrage shall submit a report to the NPCSC in accordance with the relevant provisions of the Hong Kong Basic Law and the Interpretation as regards the issue of amending the method for forming the LegCo. A determination thereon shall be made by the NPCSC." In other words, we shall first implement the selection of the CE by universal suffrage before the CE selected by universal suffrage and the HKSAR Government under his/her leadership can take forward the method for electing all LegCo members by universal suffrage. Considering the huge controversies it would likely arouse, the HKSAR Government will not propose major amendments to the method for forming the LegCo in 2020. In respect of updating election-related laws and enhancing electoral arrangements, however, the HKSAR Government will continue to propose necessary legislative amendments in the local legislation context and consult the LegCo Panel on Constitutional Affairs.

(2) The details of the discussions between CE and leaders of the Central Authorities during her duty visit are normally not disclosed.

Thank you, President.