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**A PROPOSAL FOR**  
**THE FUTURE STRUCTURE**  
**OF THE HONG KONG**  
**SAR GOVERNMENT**

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**SAR GOVERNMENT**

**The Business and Professional Group of  
Members of the Basic Law Consultative Committee**

ACC. NO.	1382285-02
DATE OF ACC.	21.10.87.
CLASS NO.	P 342.204
AUTHOR NO.	C5
REBOUND	

## INTRODUCTION

This pamphlet, published by the Business and Professional Group (BPG) of Members of the Basic Law Consultative Committee, is concerned with 1997 when sovereignty over Hong Kong returns to China and when Hong Kong will have a new political system which will directly and inevitably affect you and your livelihood.

Unlike other places with plentiful resources, Hong Kong cannot afford to take risks with its new political system. Also Hong Kong will only become a Special Administrative Region when its sovereignty reverts back to the People's Republic of China.

We must build on what we have already established, in a step by step, well planned manner.

Accordingly, we have worked out a proposal for the future SAR Government for your consideration. The aim of our proposal is to maintain Hong Kong's prosperity and stability.

September 1987

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## MAIN FEATURES

1. What are the main features of the BPG proposal?

A: The main features of the BPG proposal are its ability to retain the good aspects of the present government system including a highly efficient Executive Branch, absence of party politics in the Legislature, and a respected independent Judicial System.

2. Why does the BPG want to retain these aspects of the existing system of government?

A: The existing system of government has been highly efficient and has served Hong Kong well. Hong Kong's dramatic economic achievement in the past 20 to 30 years is strong evidence of the success of this system. It is thus essential and good common-sense to try and retain the good aspects of the present system if we do not see any real need to change them after 1997. We want Hong Kong to be able to continue its successful track record based on a tried formula.

3. Why should there be three independent branches of government?

A: It is very important to maintain the separation of powers, i.e. the Executive, Legislative and Judicial Branches, to ensure the operation of a system of healthy checks and balances so that no one branch can exert undue influence over the others.

## EXECUTIVE BRANCH

4. Why do you propose to use the Electoral College method to elect the Chief Executive, rather than the one-man-one-vote method or through the Legislature?

A: We do not favour the selection of the Chief Executive through consultation. And we believe that a system of territory-wide one-man-one-vote direct elections will generate party and confrontational politics. We are not in favour of the Chief Executive being elected by the Legislature as this will not, in our view, achieve effective checks and balances between the Executive and Legislature.

The method of election by an Electoral College can minimise the possibility of party politics and will allow the election of the Chief Executive by the Hong Kong people through balanced representation from all sectors of the society and ensure wide support.

5. Why should the Chief Executive's Council be advisory in nature?

A: By making the role of the Chief Executive's Council advisory, we make the Chief Executive more accountable for his decisions and policies since he is the head of the Executive Branch. Also, in reality, the Council cannot function as a cabinet without the backing of a political party which, in our view, is not suitable for Hong Kong.

6. Why shouldn't the future SAR Government be run on a ministerial model?

A: A ministerial system can only be built on a foundation of political parties. Since we do not advocate party politics in the governance of Hong Kong, we believe that the future Government will be accountable and responsive through the checks and balances we have built into our proposed structure.

## LEGISLATIVE BRANCH

7. What is the BPG's rationale for the size and balance of membership of the future SAR Legislature?

A: We propose that the Legislature be composed of approximately 80 members in the following proportions:

- a. 50 per cent of the seats elected by functional constituencies.
- b. 25 per cent of the seats held by directly elected members from geographical constituencies.
- c. 25 per cent of the seats elected by a territory-wide and broadly-represented Electoral College.

The 80-strong size will allow a cross-section of balanced representation in the Legislature while being not too large to reduce the efficiency of its operation. The variety of channels to elect legislators will ensure that legislators will come from a great variety of backgrounds.



8. Why should there be different types of elections to elect the legislators?

A: Functional constituencies have become widely acceptable to the people of Hong Kong and legislators so elected can reflect the views of all important sectors. Functional constituencies can yield people of specialist expertise and insight.

Our proposed territory-wide, broadly-represented Electoral College enables the Legislature to concentrate on its work rather than divisive party politics. It will identify those who will not otherwise emerge from other channels but whose special qualities are beneficial to an efficient government. It will help to provide a balance of views in the Legislature.

The proposed Electoral College will also encourage outstanding people from all sectors of the community to participate in the Legislature and can replace the existing appointments system.

Direct elections will help open up the political system to allow interested people to participate. It will also provide more channels of geographical representation in the Legislature.

9. Why should the Electoral College have 600 members and how representative is it of the territory?

A: We believe 600 will be about the right size since it will allow all sectors to have their representatives without being overly large to hamper efficiency or too small making it too easy to be manoeuvred or influenced by any one sector.

Members of the proposed Electoral College are representatives from a wide cross section of Hong Kong people, broadly representative of all sectors. Its composition is as follows:

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a. Legislative Council .....	80
b. Statutory Bodies and Permanent Non-Statutory Bodies.....	50
c. Urban Council, Regional Council and District Boards .....	50
d. Social, Charitable and Sports Organisations ....	60
e. Professionals.....	60
f. Labour.....	60
g. Industrial Community .....	80
h. Commercial Community .....	50
i. Financial Community.....	50
j. Religious/Educational Community .....	30
k. Civil Service.....	30

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## ELECTORAL COLLEGE/PARTY SYSTEM

10. As the BPG has suggested three election processes for the Legislature, you will have some people with more than one vote. How do you propose to overcome this unfair privilege?

A: We are definitely for the principle of one-man-one-vote. This principle can be upheld by legislation which specifies that each voter chooses only one type of constituency for voting.

11. According to your proposal, it appears that the business sector would corner the Electoral College. Isn't this true?

A: Of the 600 members of the Electoral College, only 180 seats (or 30 per cent) are allocated to the business sector. The rest are distributed among all other sectors in the community.

12. Why should we avoid party politics?

A: We will never be a sovereign entity and Western-styled political party systems will not, in our view, be appropriate or beneficial to Hong Kong under our unique circumstances of a Special Administrative Region and where our future sovereignty lies with the People's Republic of China.

Traditionally, Hong Kong has not been a politicised society. Its success has depended and will continue to depend on its ability to maintain stability and prosperity in the absence of confrontational politics.

## TRANSITION TIMETABLE

13. Why does the BPG propose a transition timetable?

A: There are only 10 years until 1997. If we are to have change without having chaos, we need an orderly and smooth transition. That is what our timetable is for: it brings in change gradually and step by step in a sure-footed manner so that the new structure will be in place by 1994.

14. Are members of the BPG trying to protect their vested interests by complying with the wishes of Beijing?

A: BPG members firmly believe that what is good for Hong Kong must also be good for them and their interests are the same as everybody else's. BPG members have spent a lot of time and effort in working out their proposal with the general interests of Hong Kong at heart. The BPG has never attempted to appease any government when formulating its proposal.

15. Why should direct elections be held in 1992 and not 1988?

A: To have direct elections before the Basic Law is promulgated is like putting the cart before the horse.

16. Why should the entire Legislature be in place by 1994?

A: It is important that there be as little change as possible shortly before and after 1997 in order to generate more confidence for people. If we want to keep the year 1997 as peaceful as possible without any political fanfare, it is necessary to avoid any election activities in that year. According to our proposal, the new Legislature's terms of office will be extended to four years according to a staggered system. Assuming the 4-year term starts in 1988, and that a directly elected element introduced to the Legislature in 1992, 1994 is the appropriate year to have all the necessary changes implemented. This will enable Hong Kong's political system to settle in and generate more confidence in our future system after 1997. When 1997 arrives there should only be ceremonial changes.

17: Is the BPG playing the delaying tactics to push direct elections from 1988 to 1992 and then possibly from 1992 to 1997?

A: The BPG has all along proposed that 25 per cent of the Legislature be directly elected. To ensure a smooth and orderly transition, BPG members believe that the direct elections involved should be introduced before 1997. Our timetable has clearly suggested that direct elections should be introduced in 1992. So there is no question of us playing the so-called delaying tactic.

18. Isn't it true to say that the way you compress changes in 1992 and 1994 is against the principle of step-by-step changes?

A: The first draft of the Basic Law on Hong Kong's political system will be published in 1988. Hong Kong can then begin the necessary preparation. There will be ample time to make the necessary changes. Besides, the changes proposed by the BPG originate from the existing system.

**A proposal for the future structure of  
the Hong Kong SAR Government  
by  
The Business and Professional Group of  
Members of the Basic Law Consultative Committee**

Since putting forward our preliminary proposal on the future Hong Kong SAR Government Structure in August 1986, our group has received widespread comments, suggestions, encouragements and criticism. Having studied these useful feedback and after careful consideration of practical and functional details needed to enhance our concept, we have further developed our proposal for consideration by the public and the Basic Law Drafting Committee.

The proposed structure has as its prime objective to maintain an environment in which Hong Kong and all its people can continue to enjoy prosperity and stability. While it reflects the thinking of a number of business and professional people, it is designed to be a government system that works for the welfare of all Hong Kong people. We believe that an environment conducive to business operating efficiently is a vital element in the overall well-being of all Hong Kong people in the future.

## 1. THE BASIC STRUCTURE OF THE PROPOSED FUTURE HONG KONG SAR GOVERNMENT

The basic structure relies on three independent branches of government. We believe that this separation of powers is desirable, reinforced by a system of checks and balances of each branch over the powers of the other branches.

Also, we believe that the good aspects of the existing system of government ought to be preserved as much as possible, since they have led to a highly efficient form of government that has served Hong Kong well. We have proposed some changes which seek to improve domestic and international confidence.

Our other guiding principle is that the proposed structure is compatible throughout with the provisions of the Joint Declaration in terms of government structure.

Thus, the basic elements of the proposed new government structure are as follows:

### 1.1 Highly efficient Executive Authorities

It is felt that the high efficiency levels that have characterised the functioning of the Hong Kong Government must be retained. Therefore the Executive Authorities, headed by a Chief Executive whose roles are similar in some respect to the present roles of the Governor, are proposed. The existing civil service structure needs to be preserved as much as possible and maintained totally free from political influence.

### 1.2 An independent Legislature

This is to be chosen by different election methods. Among its powers, the Legislature would have the power to impeach the Chief Executive. The Legislature would function to maintain social stability, protect human rights and freedoms and work toward commercial and industrial prosperity.

### 1.3 A respected, independent Judicial System

This will continue to be based upon the system of common law which has served Hong Kong, and many other countries, so well in the past.



## 2. THE CHIEF EXECUTIVE

In future, the powers of the Hong Kong SAR Government will be delegated by the Central People's Government of China. Since according to the Joint Declaration, the Chief Executive can be selected by election or through consultation held locally and be appointed by the Central People's Government, it is proposed that the Chief Executive be selected by means of an election in Hong Kong serving a minimum term of 4 years. We believe this to be necessary so that Hong Kong people will be part of the selection process, as stated in the Joint Declaration, and also so that they will have confidence in that the Chief Executive will truly represent their interests.

The Chief Executive will perform two roles – ceremonial head and leader of the Executive Authorities. Being accountable to the Legislature, he can be impeached by the Legislature, but the authority to remove him will lie with the Central People's Government. In the general determination of policy, the Legislature can exercise checks and balances on the Executive Authorities in such areas as legislation, budget control, etc.

### 2.1 Functions of the Chief Executive

- a. Preside at meetings of the Chief Executive's Council.
- b. Provide directions to the Administration.
- c. Give assent to law-making.
- d. Appoint members of the Chief Executive's Council.
- e. Appoint judges.
- f. Appoint public officers other than Secretaries.
- g. Appoint members of the statutory committees.
- h. Give assent to the disposal of land.
- i. Decide on pardons.
- j. Decide on petitions.
- k. Exercise command over internal security forces.

### 2.2 Qualification of the Chief Executive

The office of the Chief Executive can be held only by a Chinese national who has ordinarily resided in Hong Kong for a period of at least 21 years.

The residential qualification is intended to ensure that the Chief Executive has a good knowledge of Hong Kong and to reinforce the principle of “Hong Kong people governing Hong Kong”.

### 2.3 How to elect the Chief Executive

- a. We believe that selection of the Chief Executive either by consultation or by a system of one-man-one-vote are both inappropriate. First, the term “consultation” is ambiguous and is not readily acceptable to the people of Hong Kong. Second, we believe that a system of total direct elections would generate party and confrontational politics. It is stressed that consultation and one-man-one-vote are unsuitable and should be ruled out.
- b. To ensure wide support to the Chief Executive from various sectors, and to achieve checks and balances between the Executive Authorities and the Legislature, we are not in favour of the Chief Executive being elected by the Legislature.
- c. We propose that the Chief Executive be elected by an Electoral College which includes members of the Legislature, representatives of the Urban Council, Regional Council and District Boards, and from a wide cross-section of Hong Kong people, broadly representative of all community sectors. The total membership shall consist of:

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i. Legislative Council . . . . .	80
ii. Statutory bodies and permanent non-statutory bodies.	50
iii. Urban Council, Regional Council and District Boards.	50
iv. Social, charitable and sports organisations . . . . .	60
v. Professionals . . . . .	60
vi. Labour . . . . .	60
vii. Industrial community. . . . .	80
viii. Commercial community . . . . .	50
ix. Financial community . . . . .	50
x. Religious/educational community. . . . .	30
xi. Civil Service . . . . .	30
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We propose that 3 candidates, each of whom is considered suitable in every aspect to be the Chief Executive, be nominated by a Nomination Committee of the Electoral College and a Chief Executive elected for a term of 4 years by a vote of the full Electoral College. He is eligible for re-nomination and election to a second term but is subject to a two-term limit.

As to the electoral method, it is proposed that the Chief Executive be elected by an absolute majority of the Electoral College. If this is not obtained on the first ballot, the 2 candidates with the most votes will run in a second election.

- d. As to the nominating procedure, members of the Electoral College are to elect 20 members amongst themselves to constitute a Nomination Committee which shall obtain nominations to fill the vacancy of the Chief Executive. The Nomination Committee shall act as a search team, a body to receive recommendations and applications and to vet candidates. As members of the Nomination Committee, they are not eligible to be candidates themselves, nor to vote when the selected candidates are voted upon by the Electoral College.
- e. The merits of the method of Electoral College include the following:
  - i. The Electoral College system would minimise the tendency for confrontational politics which would more likely result from other systems of elections.
  - ii. This system allows the selection of the Chief Executive by the Hong Kong people through balanced representation from all sectors of society.
  - iii. Of all the options available, it is the system which would most likely preserve the separation of the powers of the Executive from the powers of the Legislature since the Legislature comprises only 15 per cent of the Electoral College.
  - iv. This system will most effectively and objectively seek out suitable and the best possible candidates, even if they themselves have not actively sought office.

- v. Being ineligible for the office of Chief Executive or to vote at the Electoral College, the Nomination Committee members will be able to preserve a high degree of objectivity in selecting candidates.
  
- f. It will be necessary to establish the Electoral College before July 1997. The precise constituents of each category within the Electoral College can be determined by one of the following two ways:
  - i. As the general principle of the Electoral College will have to be dealt with by the Basic Law Drafting Committee, a separate BLDC sub-group (possibly the sub-group dealing with the constitution) should remain in existence until 1997 to determine the precise constituents of each category of the Electoral College, or
  - ii. Because the Joint Declaration stipulates that the British and Chinese Governments will be responsible for ensuring a smooth transfer of government in 1997, the detailed composition of the Electoral College should be dealt with by the Joint Liaison Group as representing the two governments.

After 1997 any change to the composition within each sector of the Electoral College will be the responsibility of the Hong Kong SAR Government itself.

#### 2.4 The Chief Executive – his veto power and assent to bills

In the legislative process, when a bill is sent to the Chief Executive, he has two options. He can return it to the Legislature, within 10 days after the bill has been submitted to him, with a veto message indicating his objections. It will only become law if it is passed in identical form by a three-quarters majority vote of the Legislature. Secondly, he can sign the bill thus making it law; his assent is only a formality.

The veto power serves as a check and balance between the Legislature and the Chief Executive. Under our proposal, the Legislature elects its own President and membership comprises only elected members. The veto power will enable the Chief Executive to object to impractical amendments to bills (often proposed at the committee stage) and Private Members' Bills which do not involve expenditure.

## 2.5 Appointment of Principal Officials

All Principal Officials (equivalent to Secretaries) shall be nominated by the Chief Executive and appointed by the Central People's Government. Recruitment of Principal Officials should be based on the following principles:

- a. To maintain the integrity of the existing Civil Service.
- b. To follow the existing procedure of appointment as closely as possible including the vetting of all candidates by the Public Services Commission which should be chaired by a leading resident and supported by a competent secretariat.
- c. In exceptional circumstances a person or persons, not being a member of the Civil Service at the time of nomination, can be nominated for appointment subject to the condition that there is no qualified civil servant available for such appointment and this view being confirmed by the Public Services Commission.
- d. We do not hold the view that the Legislature should have the power to dismiss the Principal Officials. Anyone in breach of duty should continue to be dealt with under civil service regulations.

## 2.6 The role of the Principal Officials in the Legislature

The concerned Principal Officials should attend meetings of the Legislature to present bills or answer questions and to participate fully in any discussion of the Legislature. However they will not have voting right. The Executive Authorities will also direct officials to attend proceedings of the Legislature when required.

## 2.7 Civil Service

The existing system of the Civil Service is to be maintained. Recruitment and promotions are subject to the advice of the Public Services Commission which is independent of the government. To enhance confidence and ensure impartiality, the Chairman of the commission should be a leading citizen proposed by the Chief Executive and approved by the Legislature; and its work should be supported by a secretariat.

### 3. THE CHIEF EXECUTIVE'S COUNCIL

The Chief Executive needs to consult advisors with specialist skills. Therefore, we propose to preserve the existing style of operation of the present Executive Council. We propose to call the group the Chief Executive's Council with the members to be appointed by the Chief Executive. The Council is to advise the Chief Executive who is required to consult it on all important matters of policy. It does not need to be responsible to the Legislature.

The Chief Executive is the Chairman of the Council presiding over its meetings. The Chief-Executive-in-Council means the Chief Executive acting in consultation with the Chief Executive's Council.

#### 3.1 Composition

We propose that the Chief Executive's Council consist of no more than 20 members:

- a. Not more than 12 members appointed by the Chief Executive of whom not less than half are from the Legislature.
- b. 4 ex-officio members (namely the President of the Legislature, the Chief Secretary, the Financial Secretary and the Attorney General.)
- c. Not more than 3 members from the policy branches of the government.

The composition of the Chief Executive's Council should reflect the specialist expertise of the members, rather than an attempt to make the group representative of the Hong Kong people at large. (It is envisaged that this representative balance will be present in the Legislature). Also, since the Chief Executive's Council does not have executive function, it is proposed that members need not be appointed by the Central People's Government, with the exception of Principal Officials. This is compatible with the terms of the Joint Declaration.

#### 3.2 Terms of office of appointed members

Each term of appointment should be not more than 4 years.

### 3.3 Functions

- a. The Chief Executive's Council will take over the role of the existing Executive Council. In addition to policy matters, the Chief-Executive-in-Council decides on appeals, petitions and objections under those ordinances which confer a statutory right of appeal.
- b. The Council also considers all principal legislation before it is introduced into the Legislature, and is responsible for making subsidiary legislation (regulations) under a number of ordinances. The Council's advice on matters of policy involving the expenditure of public funds is subject to the approval of the necessary funds by the Legislature.
- c. The Council is to advise the Chief Executive on all important matters of policy. The Chief Executive is not required constitutionally to accept the advice of the Council but if he acts against the views of the majority, his reasons for doing so should be recorded in the minutes of the Council.

## 4. RELATIONSHIP BETWEEN THE EXECUTIVE AUTHORITIES AND THE LEGISLATURE

In general, we support the principle stated in the Joint Declaration that the Executive Authorities shall abide by the law and shall be accountable to the Legislature. We propose that the Chief Executive should not serve as President of the Legislature. The Legislature should elect its own President to preside at its meetings, decide on committee formation and appoint committee members. These committees would be empowered to monitor, review and make suggestions on improvements to various executive departments. Accountability of the Executive Authorities to the Legislature can be achieved in the following ways:

### 4.1 Control over finance

The Legislature has control over finance, namely, through discussing and passing the Annual Budget comprising the estimates of expenditure and proposals for raising funds. A select committee of the Legislature, i.e. the Committee on Public Accounts will scrutinise the annual accounts and the reports made on them by the Auditor General, and make a report to the Legislature.

### 4.2 Questions and debates

Question time and debates in the Legislature provide opportunities for its members to criticise the manner in which money is spent. The Legislature has the right to comment on policy issues.

There are also opportunities for members of the Legislature to probe the policy-making of the Executive Authorities during Select Committee investigation and the committee stage of government bills.

### 4.3 Annual Budget

The Executive Authorities are responsible for laying before the Legislature each year the government's Estimates of Revenue and Expenditure. In the event of the government failing to obtain a majority vote for the adoption of the Appropriation Bill (which gives legal effect to the annual expenditure proposals contained in the Budget), the whole Budget will be referred to an ad hoc committee made up of 9 members elected among members of the Legislature with the mandate to consult with the Executive Authorities to effect a compromise. The ad hoc committee makes



recommendations by a majority vote and submits its report to the Legislature within 60 days of its appointment. In the meantime, the Legislature will make special authorisations of funds for short periods at the same rate of expenditure as that in the previous fiscal year pending passage of the annual Appropriation Bill.

The Committee reports are submitted to the Legislature where they must be accepted or rejected but they cannot be amended. If the Legislature does not accept the recommendations, it refers the matter back to the ad hoc committee for further conference subject to the rule that it can only refer the Budget to the ad hoc committee for consideration on two occasions. The Committee report, if accepted and passed by the Legislature, is submitted to the Chief Executive who may assent to or veto it. Final rejection of the Committee report either by the Chief Executive or the Legislature itself will result in the dissolution of the Legislature in accordance with a specific provision in the Basic Law for the Hong Kong SAR Government. However, if the newly elected members to the Legislature vote against the Budget again, the Chief Executive should resign.

This system is designed to help resolve a confrontational situation between the Executive Authorities and the Legislature over the Budget. Hong Kong will come to a halt if the Budget is not approved. The procedure provides for consultation through the ad hoc committee and exerts pressures on both the Executive Authorities and the Legislature to effect a compromise. The dissolution of the Legislature and the resignation of the Chief Executive are measures of the last resort but the provision for this eventuality exerts strong pressures on both sides to compromise and reduces the probability of a deadlock remaining unresolved.

A different procedure applies to supplementary provisions. All proposals for additional financial provision arising during the current financial year after the Appropriation Bill has been passed must be referred to the Finance Committee for its approval. If the Finance Committee rejects a proposal, the Executive Authorities can re-submit it after taking into consideration the points made.

#### 4.4 Fiscal reserves

The Executive Authorities have no right to use the fiscal reserves without securing the approval of the Legislature.

#### 4.5 Exchange Fund

The use of the Exchange Fund by the Executive Authorities for purposes other than regulating the exchange value of the Hong Kong dollar shall be reported and made accountable to the Legislature afterwards.

## 5. IMPEACHMENT OF THE CHIEF EXECUTIVE

### 5.1 Principles:

- a. The Chief Executive is subject to impeachment proceedings, for reasons of corruption and other serious criminal offences only. This is to ensure that the Chief Executive is not subservient to the Legislature in accordance with the agreed principles of separation of powers. The Chief Executive must be able to carry his duties without fear or favour and must not be afraid to make unpopular decisions in the longer term interests of Hong Kong.
- b. The impeachment proceedings must be initiated by the Legislature of the future Hong Kong SAR Government, irrespective of whether the proposal originates from Hong Kong or the Central People's Government.

### 5.2 Proposed impeachment proceedings:

- a. Initiation of impeachment should be taken by a special committee set up by the Legislature; the special committee is only ad hoc, not a standing committee.
- b. The Special Committee should consist of not less than 12 members, with not more than 40% of them being members of the Legislature; it can include other people such as High Court Judges in its membership.
- c. Recommendation for impeachment should be passed by two-thirds of the members of the Special Committee.
- d. The Legislature shall have the sole power to adjudicate any such impeachment. When sitting for that purpose the Chief Justice shall preside and impeachment of the Chief Executive is passed upon affirmative resolution of three-quarters of the members.
- e. Impeachment shall result in a recommendation to the Central People's Government that the Chief Executive be removed from office and be disqualified to hold any office under the Hong Kong SAR Government. After having been removed from office, the Chief Executive shall then be liable to prosecution, trial, judgment and punishment according to the laws of the SAR.

## **6. RELATION OF THE CHIEF EXECUTIVE TO THE CENTRAL PEOPLE'S GOVERNMENT**

- 6.1 The Chief Executive shall be elected by local election in Hong Kong and be appointed by the Central People's Government in accordance with the Basic Law.
- 6.2 The Chief Executive shall not be removed, suspended, charged or subject to other disciplinary action except by way of impeachment initiated by the Legislature of the Hong Kong SAR Government in accordance with the provisions in the Basic Law.
- 6.3 Except in foreign and defence affairs, the Chief Executive is empowered to make decisions in accordance with the Basic Law; and is not expected to seek approval from the Central People's Government in the exercise of his powers within the local government of the Hong Kong SAR.
- 6.4 The Chief Executive, during his term of office, should not hold any role or office in the Central People's Government.
- 6.5 The Chief Executive should only have one official channel of communication with the Central People's Government.

## 7. THE LEGISLATURE

7.1 It is proposed that the powers of the Legislature should be as follows:

- a. Making of laws.
- b. Passing of finance bill introduced by the Executive Authorities.
- c. Holding the Annual Debate.
- d. Voting of Budget income and expenditure.
- e. Scrutinising estimates.
- f. Asking questions on public affairs.
- g. Proposing motions.
- h. Submitting reports for debate.
- i. Convening Finance Committee on public expenditure.
- j. Convening Establishment Sub-committee.
- k. Convening Public Works Sub-committee.
- l. Forming Select Committees under the Powers & Privileges Ordinance.
- m. Performing functions similar to those of Omelco at present.
- n. Exercising control over the use of fiscal reserves.
- o. Electing its own President.
- p. Participating in statutory committees.
- q. Having the power to impeach the Chief Executive.
- r. Endorsing appointment and removal of principal judges as laid down in the Joint Declaration.
- s. Endorsing international agreements.
- t. Allowing members to introduce Private Members' Bills without government revenue or expenditure implications.

### 7.2 Composition

It is proposed that the Legislature be composed of approximately 80 members in the following proportions:

- a. 50% of the seats held by functional constituencies.
- b. 25% of the seats held by direct election candidates on a geographical constituency basis.

- c. 25% of the seats elected by the Electoral College.
- d. The Chief Executive may and the concerned Principal Officials should attend meetings of the Legislature but without voting rights because of separation of powers between the two branches.

### 7.3 Functional constituency elections

Our proposal that 50% of the seats be allocated to functional constituencies is based on the following:

- a. Functional constituencies have become highly acceptable to people from various sectors.
- b. They can reflect the views of all appropriate sectors.
- c. They can yield people of specialist expertise and insight of these different sectors.

### 7.4 Direct elections

- a. 25% of members of the Legislature will be elected by direct elections.
  - i. Hong Kong's political system should be gradually made more open.
  - ii. Direct elections will provide geographical representation in the Legislature.
- b. Nomination and voting
  - i. There is no need for nomination or screening procedure for direct election candidates except the general requirements that the candidates should be over 21 years old, have resided in Hong Kong for 10 years at least and should not have a criminal record. These general requirements should apply to all candidates of the Legislature.
  - ii. On voting of candidates, the principle of one-man-one-vote will apply with the whole territory of Hong Kong to be divided into 10 two-member constituency districts; the two candidates in each district topping the poll will be elected.

## 7.5 Electoral College elections

- a. 25% of the seats will be elected by the Electoral College (formed on the same basis for electing the Chief Executive) subject to a nomination procedure in order to achieve the following objectives:
  - i. To ensure overall balance in the composition of the Legislature.
  - ii. To identify and nominate those who would not emerge from the channels of functional constituencies or district elections but whose special qualities and expertise are beneficial to an efficient government.
  - iii. To encourage and nominate outstanding people from all sectors of the community to participate in the Legislature thus replacing the existing appointments system.
  - iv. To reinforce certain expertise that may be required in the Legislature for special reason.
  
- b. Nomination Committee and its role:

For election to the Legislature only, members of the Electoral College will elect 18 members among themselves who, together with the Chief Executive and the President of the Legislature as ex-officio members, will constitute a 20-member Nomination Committee to obtain nominations. Members of the Nomination Committee will not themselves be eligible to stand for elections. The Nomination Committee shall act as a search team, a body to receive recommendations and applications; and to vet and select candidates to be voted upon by the Electoral College. In the event of any member of the Electoral College being selected as a candidate, he must step down from the College once he accepts such nomination.

## 7.6 Residence requirement

A member of the Legislature is required to have resided in Hong Kong for at least 10 years.

## 7.7 Terms of office

Members of the Legislature will be elected for a term of 4 years; but the number of times they might be re-elected is limited to 2 consecutive terms.

## 7.8 Staggering arrangement

As the Legislature of the future Hong Kong SAR Government is composed of 80 members each elected for 4 years, and in order to ensure continuity in membership and policy in the Legislature; the principle of staggering its members' period in office is proposed in such a way that half of the members retire every two years or conversely elections to the Legislature will be held every two years in two different groupings as follows:

<b>Group (1)</b>	<b>% of total membership</b>
Members via Functional Constituencies	25%
Members via Electoral College	25%
<b>Group (2)</b>	
Members via Functional Constituencies	25%
Members via Direct Elections	25%

## 8. INDEPENDENT JUDICIARY

Regarding the role of the Judiciary, we propose to follow the principles as laid down in the Sino-British Joint Declaration.



## Timetable for Transition

The group's view is that the transition to 1997 and beyond should be as smooth as possible. We thus believe that any change to Hong Kong's political system before that year should be made step by step and according to a well designed timetable, and needs to converge with the future Basic Law for the territory. Moreover, it is vital that the government structure which will guide Hong Kong after 1997 ought to be firmly in place before that date and that the future Legislature as per our proposal will include an element of directly elected members.

## PROPOSED TIMETABLE

Accordingly, we have recommended a timetable based on our proposal. This timetable will, in our view, prepare Hong Kong for a smooth transition to 1997.

Three chief features of our proposed timetable are:

1. Direct elections, based on geographical constituencies, for 25 per cent of our proposed 80-member Legislature will begin in 1992.
2. The entire Legislature as recommended by us will be in place in 1994.
3. No election activities in 1997.

**Composition of Hong Kong's Legislature**  
**A Proposed Timetable for an Orderly Transition to 1997**  
**by The Business & Professional Group of Members of the BLCC**

TYPE OF MEMBERS	AT PRESENT	1992	1994	1996	1997
Ex-officio & Official Members	10	8	0	0	No Election in this year
Functional Constituency Elected Members	12	32(20)	40(20)	40(20)	
Appointed Members	22	20	0	0	
Broadly-represented (Territory-wide) Electoral College Elected Members	0	0	20(20)	20	
District/ Municipal Electoral College Elected Members	12	0	0	0	
Directly Elected Members (Geographical Constituencies)	0	20(20)	20	20(20)	
Total Membership	56	80	80	80	

**Footnote:**

1. Figures in brackets denote newly elected members in the years concerned.

## EXPLANATORY NOTES

1. Directly elected members from Geographical Constituencies will replace members elected from the District/Municipal Electoral College in 1992 and the number of seats in this category will be expanded to 20.
2. Members elected by the broadly-represented territory-wide Electoral College will replace Appointed Members of the Legislature in 1994.
3. To ensure continuity and stability in the Legislature, we propose the following four-year staggered terms for legislators:
  - o Half (20 out of 40) of the members elected from the Functional Constituencies will stand for re-election in 1994, the other half in 1996 and so on.
  - o All (20 out of 20) of the directly elected members from the Geographical Constituencies will stand for re-election in 1996, and thereafter every four years.
  - o All (20 out of 20) members elected by the broadly-represented territory-wide Electoral College will stand for re-election in 1998, and thereafter every four years.
4. 1997 should be a quiet year without political fanfare.
5. The timetable for the transition period is designed to facilitate an orderly and coordinated change in the composition of the Legislature and to avoid political confusion in Hong Kong.
6. Any structural changes made to the existing Hong Kong government system should converge with the Basic Law so as to avoid any unnecessary confusion and conflict. Nevertheless we would support any necessary fine-tuning to the existing Legislature between now and 1992 to enable the Government to function more efficiently.

## PRESIDENCY OF THE LEGISLATURE

According to our proposal, future legislators should elect their own President. Therefore, we propose that the Governor should withdraw from the presidency of the Legislature in 1994.