

Consultation Document on the Method for Selecting the Chief Executive by  
Universal Suffrage

**Submission of the Hong Kong Bar Association**

1. The HKSAR Government published in January 2015 a Consultation Document on the Method for Selecting the Chief Executive by Universal Suffrage (“**the Consultation Document**”).
2. The Hong Kong Bar Association (“**the HKBA**”) puts forward this Submission in response to the Consultation Document.
3. This Submission addresses the following issues:
  - The matters recommended for consideration in Chapters 3 to 6 of the Consultation Document, as well as some related matters, such as the “NOTA option” in voting by the electorate.
  - The legal position where no bill of amendment to Annex I to the Basic Law of the HKSAR is endorsed by the Legislative Council.
  - Whether further amendments can be made to the method of selection of the Chief Executive by universal suffrage after 2017.
4. The HKBA had set out its general views on the rules of composition and formation of the nominating committee, the rules of operation of the nominating committee, the rules of nomination in the Chief Executive election, the rules of campaigning in the Chief Executive election and the rules of voting in the Chief Executive election in its Submission of 28 April 2014, made in response to the 2014 Consultation Document of the HKSAR Government on Methods for Selecting the Chief Executive in 2017 and for Forming the Legislative Council in 2016. The HKBA will make references to this earlier submission below. The

HKBA's Submission of 28 April 2014 is accessible at:  
<http://www.hkba.org/whatsnew/misc/2-HKBA-ConstDev%20Submission%20final.pdf>.

5. The HKBA is a professional and apolitical body. The HKBA has deliberately confined itself in previous consultation exercises by the HKSAR Government on constitutional development to discuss and comment on the relevant legal issues. The HKBA takes the same approach in relation to the Consultation Document. The HKBA also does not intend to and will not propose any method for selecting the Chief Executive by universal suffrage in 2017.

#### Consultation Document: General Observations

6. Chapter 2 of the Consultation Document sets out the HKSAR Government's consideration that the draft amendment bill to Annex I to the Basic Law and relevant amendments to the local legislation must comply with "the Basic Law and the 2014 Decision of the NPCSC".<sup>1</sup> The matters for consideration in Chapters 3 to 6 of the Consultation Document are put forward for discussion based on this and other premises in Chapter 2.
7. There have been many publicized views disagreeing with the premises in Chapter 2 and suggesting that strict compliance or conformity with the NPCSC Decision of 31 August 2014 is not necessary in the formulation of draft amendment bill to Annex I by the HKSAR Government. This public controversy has since evolved into the lodging of an application for leave to apply for judicial review on 3

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<sup>1</sup> The "2014 Decision of the Decision" refers 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 NPCSC Decision of 31 August 2014"). It is a decision of the Standing Committee of the National People's Congress ("NPCSC") following the examination of the report of the Chief Executive, submitted in accordance with 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 (Adopted by the Standing Committee of the Tenth National People's Congress at its Eighth Session on 6 April 2004) ("the NPCSC Interpretation of 6 April 2004").

March 2015 in the Court of First Instance. This application puts into question, inter alia, the legal effect of the NPCSC Decision of 31 August 2014 in Hong Kong.<sup>2</sup>

8. In the light of the above developments, which have now put the question of the legal effect of the NPCSC Decision of 31 August 2014 in Hong Kong into a sub judice matter (i.e. a matter that is to be adjudicated upon in pending legal proceedings), and in view of the divergent and differing tenable views in the Hong Kong legal profession on the legal validity of the NPCSC Decision of 31 August 2014, the HKBA does not find it appropriate in these circumstances to express a position on these questions.
9. The HKBA would respond to the specific matters recommended for consideration in Chapters 3 to 6 of the Consultation Document. Since these specific matters are premised upon the relevant provisions of Article II of the NPCSC Decision of 31 August 2014, it is convenient to set out here the terms of those provisions:

*(1) A broadly representative nominating committee shall be formed. The provisions for the number of members, composition and formation method of the nominating committee shall be made in accordance with the number of members, composition and formation method of the Election Committee for the Fourth Chief Executive.*

*(2) The nominating committee shall nominate two to three candidates for the office of Chief Executive in accordance with democratic procedures. Each candidate must have the endorsement of more than half of all the members of the nominating committee.*

*(3) All eligible electors of the Hong Kong Special Administrative Region have the right to vote in the election of the Chief Executive and elect one of the candidates for the office of Chief Executive in accordance with law.*

*(4) The Chief Executive-elect, after being selected through universal suffrage, will have to be appointed by the Central People's Government.*

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<sup>2</sup> *Re Leung Lai Kwok Yvonne* (HCAL 31/2015).

(一) 須組成一個有廣泛代表性的提名委員會。提名委員會的人數、構成和委員產生辦法按照第四任行政長官選舉委員會的人數、構成和委員產生辦法而規定。

(二) 提名委員會按民主程序提名產生二至三名行政長官候選人。每名候選人均須獲得提名委員會全體委員半數以上的支持。

(三) 香港特別行政區合資格選民均有行政長官選舉權，依法從行政長官候選人中選出一名行政長官人選。

(四) 行政長官人選經普選產生後，由中央人民政府任命。

10. The HKBA refers to its Submission of 28 April 2014 and would re-emphasize the principles it stated back in April 2014 that the method to be devised for the selection of the Chief Executive, as well as the electoral law to be enacted to give effect to the method, should not contain any discriminatory distinctions<sup>3</sup> or unreasonable restrictions and must ensure to every HKSAR permanent resident the right and opportunity to vote and be elected at genuine periodic elections which shall be by universal and equal suffrage, guaranteeing the free expression of the will of electors.<sup>4</sup> Additionally, Article 26 of the Basic Law guarantees the democratic rights of HKSAR permanent residents.<sup>5</sup> It is relevant from the legal perspective to find out the scope of the requirements imposed by Article II of the NPCSC Decision of 31 August 2014; whether the requirements result in any restrictions to the above fundamental rights; and if so, each restriction shall be examined critically to see whether it serves a legitimate purpose and is proportionate to achieving that legitimate purpose. If not, then the restriction shall be regarded as an unreasonable restriction and an infringement of one or more of the above fundamental rights.

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<sup>3</sup> Such distinctions include “race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”. The requirement of enjoyment without the said distinctions brings into play the “equality before the law” and anti-discrimination stipulations in both the Basic Law and the ICCPR.

<sup>4</sup> ICCPR, Article 25; see HKBA’s Submission of 28 April 2014, paragraphs 9 to 18. For the HKBA’s discussion of the relevance of ICCPR Article 25 to the Chief Executive electoral method, see Appendix to HKBA’s Submission of 28 April 2014.

<sup>5</sup> HKBA’s Submission of 28 April 2014, paragraphs 19 to 28.

11. The HKBA believes that it is appropriate to conduct this examination for the following reasons: Firstly, the implementation of the terms of the NPCSC Decision of 31 August 2014 in Hong Kong, if found to be unreasonable restrictions of political rights guaranteed under the ICCPR, would engage international obligations that the People’s Republic of China has undertaken in respect of the HKSAR. Secondly, if the terms imposed under the NPCSC Decision of 31 August 2014 are restrictions that constitute “unreasonable restrictions”, the HKSAR legislation to be introduced must strive to mitigate the “unreasonableness” of the restrictions. Thirdly, findings that the terms imposed under the NPCSC Decision of 31 August 2014 are unreasonable restrictions provide a solid and compelling reason why, assuming that Chief Executive election by universal suffrage is achieved in 2017, there should be improvements and changes to remove them in 2022 and/or the subsequent terms.

### Consultation Document: Chapter 3

12. Chapter 3 of the Consultation Document is premised upon Article II(1) of the NPCSC Decision of 31 August 2014, which provides that the nominating committee shall follow the current composition of the Election Committee for the Fourth Chief Executive and have 1,200 members from four major sectors in equal proportions, to be selected by the existing method provided for in Annex I to the Basic Law.

13. The HKBA had stated in its Submission of 28 April 2014 that the rules for the formation of the nominating committee should ensure the maximum extent of participation of the electorate and parity in such participation by individual members of the electorate. The HKBA had questioned the consistency of a sectorial composition of the nominating committee with these principles.<sup>6</sup>

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<sup>6</sup> HKBA’s Submission of 28 April 2014, paragraphs 54 to 57.

14. The HKBA refers to the study done by Simon Young and Richard Cullen to document the “gross and unjustified disparities in voting power” between voters in different subsectors in the previous election committees composed of four sectors of equal proportions. A large number of members of the functional constituencies, especially with corporate status, were elected unopposed. The fewest people voted in the subsector elections to membership of the election committee than to any other position: over 90% of people are left out of the process. On the whole, corporate members, though a minute proportion of people, dominated the election committee. A comparison between the share of votes of the election committee for the pro-democracy candidate in the Chief Executive election in 2007 and the share of votes of pro-democracy candidates in the Legislative Council election in 2008 showed that the “EC is neither a microcosm of Hong Kong society nor representative of the views of the general electorate”. The election committee system was “neither fair, nor open, nor democratic”.<sup>7</sup> Simon Young has updated his examination of the election committee: “Given the over-representation of business and professional elites and pro-Beijing labour and political leaders, the will of the Election Committee is easily manipulated by the central government. This was seen in the 2012 Chief Executive election”.<sup>8</sup> The HKBA considers that these studies illustrate the concerns it had raised in the Submission of 28 April 2014.

15. The matters suggested for consideration in Chapter 3 of the Consultation Document are: (a) composition of subsectors under the four sectors of the nominating committee; (b) the number of members of each subsector; and (c) the electorate base of such subsectors. The HKBA considers that while Article II(1) of the NPCSC Decision of 31 August 2014 imposes the boundaries of the composition of the nominating committee, it is still essential to make it as “broadly representative” as possible.

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<sup>7</sup> Simon Young and Richard Cullen, *Electing Hong Kong's Chief Executive* (Hong Kong University Press, 2010) p ix.

<sup>8</sup> Simon Young, *Hong Kong – universal suffrage, constitutional reform and occupy central protests* [2015] *Public Law* 158-160.

16. As to the composition of the subsectors under the four sectors of the nominating committee, the HKBA considers that introduction of more subsectors in the nominating committee will be likely to increase the representativeness of those groups which are not sufficiently represented in the existing 38 subsectors of the election committee for the Fourth Term Chief Executive.

17. As to the number of members of each subsector, the HKBA considers that the number of members of each subsector should be linked to the electorate base of the relevant subsector. Where a subsector has a large electorate base, particularly one based on individuals, an increase in the number of members of that subsector is likely to increase the representativeness not only of that subsector but also of the nominating committee as a whole.

18. As to the electorate base of all subsectors, the HKBA submits that corporate voting should be abolished.

#### Consultation Document: Chapter 4

19. Chapter 4 of the Consultation Document is concerned with the procedures for the nominating committee to nominate Chief Executive candidates. This Chapter is premised upon Article II(2) of the NPCSC Decision of 31 August 2014.

20. Article II(2) of the NPCSC Decision of 31 August 2014 has two requirements. The first places a limit on the maximum number of candidates that the nominating committee may nominate. The second requires each such candidate to have the endorsement of more than half of the members of the nominating committee.

21. The HKBA had criticized both requirements in its Submission of 28 April 2014 as unreasonable restrictions.<sup>9</sup> The criticisms were founded on the following principles in respect of nomination as part of the process for electing the Chief Executive by universal suffrage:

- The process of nomination must ensure the full enjoyment by the electorate of their democratic rights, including the right to effective representation and the right to meaningful participation. Thus the rules of nomination in the Chief Executive election must in practice and substance ensure that the persons entitled to vote shall have a plurality of candidates for the voters. The expression “plurality” refers not simply numerical plurality but more importantly political plurality. Another way of putting the point is that the rules of nomination must ensure that the electorate has “a free choice of candidates”.
- The function of the nominating committee is to nominate candidates for election by the electorate by universal suffrage; its function or purpose is not to determine the result of the Chief Executive election.
- Collective decision-making by “majority rule” runs a serious risk of the nominating committee pre-determining the choices available to the electorate to such an extent that a “free choice of candidates” among the variety of alternatives is not possible or to have the effect of excluding popular contenders for nomination on an established ground of discrimination (such as political or other opinion). Both possible outcomes will undermine the requirement that Chief Executive elections shall be genuine periodic elections that guarantee the free expression of the will of the electors without unreasonable restrictions.
- The problems associated with overcrowded ballots have been addressed in overseas jurisdictions. Some of the ways put in place to prevent overcrowded

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<sup>9</sup> HKBA’s Submission of 28 April 2014, paragraphs 63 to 69.



ballots, such as a substantial filing fee or deposit, have been introduced into Hong Kong.

- The rules of nomination of the nominating committee would in their operation lead to a finite number of candidates that can be nominated by it in practice, without there being an explicit numerical limitation on number of candidates in electoral law.<sup>10</sup>

22. The HKBA adds that the requirements in Article II(2) of the NPCSC Decision of 31 August 2014 ought to be considered in the light of the requirements under Article II(1) of the same. Given the composition of the nominating committee as required by Article II(1), the requirements in Article II(2) make it even more unlikely that there will be a plurality of candidates of different political persuasions or “a free choice of candidates”.

23. The HKBA turns to the specific matters recommended for consideration in this Chapter. They include the stages of nomination and threshold, the transparency of the nominating procedures, and the specific nominating process.

24. The HKBA agrees that the nominating procedures of the nominating committee should be divided into two stages, namely the stage of “members recommendation” and the stage of “committee nomination”. The stage of “members recommendation” refers to the arrangement whereby an applicant aspiring to be a candidate in the Chief Executive election by universal suffrage becomes a contender for the consideration of the nominating committee at the stage of “committee nomination” through securing the endorsement of a specified number of members of the nominating committee. In order to promote plurality of candidacy and ensure a free choice of candidates for the electorate, the HKBA is

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<sup>10</sup> The HKBA also notes that, in any event, the costs and human efforts of running an election campaign in the whole of Hong Kong will be prohibitive to many. This places another practical limit to the number of “serious” candidates.

of the view that the specified number should at least be the lower number of 100 as suggested by the HKSAR Government, if not an even lower figure.

25. The HKSAR also suggests consideration be given to the issues of whether there should be a limit for recommendations that each nominating committee member may make at the “members recommendation” stage and whether there should be a cap on the recommendation each person seeking nomination can obtain.
26. The HKBA is of the view that, in order to promote plurality of candidacy and ensure a free choice of candidates for the electorate, the HKSAR Government’s suggestion of restricting each nominating committee member to only recommending one person should be rejected.
27. On the other hand, and for the same reasons, the HKBA is of the view that there should be a cap on the number of recommendations each person seeking nomination can obtain.
28. Regarding the issue of transparency, the HKBA has stated in its Submission of 28 April 2014 that given the nominating committee’s function of nominating candidates, its deliberation and decision-making should be public and open in order to promote and ensure transparency and accountability. Each member of the nominating committee participates in it in the capacity of a “representative” only and he or she owes a duty to account to those whom he or she represents.
29. The HKSAR Government suggests consideration be given to the issue of whether the nominating committee should convene any plenary meeting. The HKBA considers that the nominating committee should hold at least three plenary meetings. In order to ensure that applicants aspiring to be contenders of candidature may have equal and adequate opportunities of presenting their manifestoes and missions to all members of the nominating committee, there

- should be a plenary meeting of the nominating committee at the “members recommendation stage”.
30. After the conclusion of the “members recommendation stage”, there should be another plenary meeting of the nominating committee to allow validly recommended contenders to present their manifestoes and missions and answer questions.
  31. Thereafter, the third plenary meeting of the nominating committee should be held to nominate candidates for the Chief Executive election by universal suffrage. There should not be any secret balloting in the nominating committee’s decision-making.
  32. All three plenary meetings should be public and open meetings.
  33. As to the specific procedure for the nominating committee to make nominations, the HKBA takes the view that the method which would have the greatest chance of enabling the production of a plurality of candidates is preferred.

Consultation Document: Chapter 5

34. The HKSAR Government asks in Chapter 5 of the Consultation Document that consideration be given to the voting system for selection of the Chief Executive by universal suffrage.
35. The HKBA has indicated in its Submission of 28 April 2014 that the voting system for selection of the Chief Executive by universal suffrage should ensure that the preferences of each voter be expressed and properly taken into account. The method of voting should also ensure that the winning candidate would have a majority mandate to legitimately exercise the powers of the Chief Executive for

and on behalf of the HKSAR. Voting in a Chief Executive election must be by secret ballot.

36. The “First-past-the-post” voting system does not satisfy all the considerations stated in the preceding paragraph. A more evaluative system is preferred. Of the three other systems the HKSAR Government asks the public to consider, both the two-round voting system and the instant runoff system merit further consideration.
37. The HKBA suggests that consideration should be given to study the option of ticking “NOTA” (or none of the above) with the corresponding rule that if “NOTA” receives more than 50% or the most of the number of valid votes cast, the election is deemed to have failed. Such an option gives the voter the right to express his disapproval with the kind of candidates that are being put forward by the nominating committee.<sup>11</sup> It may have the salutary effect of increasing voters’ participation and hence participation in the political process of selecting the Chief Executive.<sup>12</sup> It may also serve as the means of sending clear signals to political parties and the candidates as to what the electorate think about them.<sup>13</sup>

#### Consultation Document: Chapter 6

38. Chapter 6 of the Consultation Document seeks views on three issues related to the selection of the Chief Executive by universal suffrage. They concern the term of office of the nominating committee, re-election arrangements in case that the

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<sup>11</sup> The Supreme Court of India had upheld a “positive ‘right not to vote’” as “part of expression of a voter in a parliamentary democracy”, to be recognized and given effect in the same manner as “right to vote”, so that there should be a button of “none of the above” in the electronic voting machines to express the “right not to vote”: *People’s Union for Civil Liberties & Anor v Union of India & Anor* (Writ Petition (Civil) No 161/2004, 27 September 2013). The Supreme Court bench of three judges, presided by the Chief Justice of India, asserted in conclusion that if voters could choose “none of the above”, political parties would be compelled to nominate a sound candidate (at paragraph 51).

<sup>12</sup> See again *People’s Union for Civil Liberties & Anor v Union of India & Anor* (above) at paragraphs 53.

<sup>13</sup> *Ibid*, at paragraph 56.

Chief Executive-elect were not appointed, and the political affiliation of the Chief Executive.

39. The HKBA considers that the term of office of the nominating committee should terminate upon the swearing in of the Chief Executive it has nominated. The function of the nominating committee is in the selection of the particular Chief Executive. Once the particular Chief Executive is elected, appointed and sworn in, the nominating committee must be *functus officio*. The justifications for the existing arrangement of the Election Committee having a term of office coterminous with that of the Chief Executive that it was constituted to elect do not apply to the nominating committee in the method of selection of the Chief Executive by universal suffrage. Rather, constituting the nominating committee afresh at the time of a casual vacancy other than completion of term of office will better reflect the preferences and sentiments of the electorate at that time.
40. The HKBA agrees that the Chief Executive Election Ordinance (Cap 569) should include provisions to deal with the situation where a Chief Executive-elect returned by universal suffrage is not appointed by the Central People's Government. The electoral law in HKSAR legislation should provide that in such an event, the nominating committee shall nominate candidates and an election be held by universal suffrage of the nominated candidates within a reasonable time or a specified time frame.
41. The arrangement that the Chief Executive should not have any political affiliation is a restriction of an individual's right to stand for election, freedom of association and right of political expression. While maintenance of the existing arrangement is to ensure the political impartiality of the Chief Executive, the HKBA considers that there are respectable arguments that removing this restriction would be conducive to effective administration and that there is as much public support for removal of the restriction as the opposite view.

## Where No Bill of Amendments Endorsed by Legislative Council

42. There have been publicized opinions that in the event that a bill of amendments to Annex I to the Basic Law is not endorsed by a two-third majority of all members of the Legislative Council, the HKSAR Government will be under a “constitutional duty” to re-start the five-step process under the NPCSC Interpretation of 6 April 2004. The HKBA disagrees.

43. Article 4 of the NPCSC Interpretation of 6 April 2004 states:

*If no amendment is made to the method for selecting the Chief Executive, ... the provisions relating to the method for selecting the Chief Executive in Annex I will still be applicable to the method for selecting the Chief Executive ...*

*上述兩個附件中規定的行政長官的產生辦法…如果不作修改，行政長官的產生辦法仍適用附件一關於行政長官產生辦法的規定…。*

This is a clear statement that, if no amendments can be made on whatever grounds, the existing method for selecting the Chief Executive will be used.

44. The Decision of the NPCSC on Issues Relating to the Methods for Selecting the Chief Executive of the HKSAR and for Forming the Legislative Council of the HKSAR in the Year 2012 and on Issues Relating to Universal Suffrage (Adopted by the Standing Committee of the Tenth National People’s Congress on 29 December 2007) merely provides in the Preamble that “the election of the fifth Chief Executive of the Hong Kong Special Administrative Region in the year 2017 *may be* implemented by the method of universal suffrage/ 2017年香港特別行政區第五任行政長官的選舉 *可以*實行由普選產生的辦法”. It does not provide that it “must be” implemented by universal suffrage. Further, Article 4 of the Decision provides clearly that:

*If no amendment is made to the method for selecting the Chief Executive ... the method for selecting the Chief Executive used for the preceding term shall continue to apply ...*

香港特別行政區行政長官的產生辦法...如果未能依照法定程序作出修改，行政長官的產生辦法繼續適用上一任行政長官的產生辦法...

45. Article IV of the NPCSC Decision of 31 August 2014 makes it clear that if no amendments to Annex I to the Basic Law to implement universal suffrage in the method of selection of the Chief Executive, the method of selection used in respect of the Chief Executive of the previous term would apply. This means that there will not be a Chief Executive election by universal suffrage in 2017.
46. In the light of the above provisions, there is no legal basis to suggest that in the event that the bill of amendments to Annex I to the Basic Law is not endorsed in the Legislative Council, the Chief Executive or the HKSAR Government is under a constitutional or legal duty to restart the process of amendment of Annex I.

#### Further Amendments to the Chief Executive Electoral Method by Universal Suffrage

47. The HKBA considers that there is nothing in the Basic Law to prevent further amendments to Annex I to the Basic Law or the electoral laws in HKSAR legislation in the event that they introduce selection of the Chief Executive by universal suffrage after nomination by the nominating committee in accordance with the NPCSC Decision of 31 August 2014.
48. Article 7 of Annex I to the Basic Law, which is the provision on amending the method for selecting the Chief Executive for the terms subsequent to the year 2007, does not prescribe that its mechanism for amending the method of selection of the Chief Executive shall cease to be valid and effective if the ultimate aim of selection of the Chief Executive by universal suffrage has been achieved. The NPCSC Interpretation of 6 April 2004 also provides in Article 2 an interpretation of Article 7 of Annex I to the Basic Law in relation to the method

for selecting the Chief Executive *for the terms subsequent to the year 2007*, which appears to indicate the acceptance on the part of the NPCSC that Article 7 of Annex I shall continue to apply for the subsequent terms notwithstanding any amendment to the other Articles of Annex I.<sup>14</sup>

49. Although Article II of the NPCSC Decision of 31 August 2014 was adopted to make provision for certain “core issues” concerning the method of electing the Chief Executive by universal suffrage<sup>15</sup> and is couched in terms that there is no express language limiting the conditions it imposes to apply only to the Chief Executive election by universal suffrage in 2017, this does not, in the opinion of the HKBA, mean as a matter of law that this Article and the requirements therein are incapable of change or relaxation in due course.

50. Whether any amendments will be made to Annex I to the Basic Law will depend on whether the Chief Executive takes the view and the NPCSC determines that there is a “need” to amend the method of selection of the Chief Executive for the election to be held in 2022. It is undoubtedly a legitimate concern that either the Chief Executive or the NPCSC may declare that there is no such “need”. However, these are political decisions. What the HKBA wishes to emphasize here is that as a matter of law, so long as Article 7 of Annex I to the Basic Law remains in the present form, it cannot be legitimately asserted that it is no longer permissible to make any further amendments to Annex I. It is the NPCSC’s function to determine whether the method of selection of the Chief Executive should be changed for the 2022 election and if so, the changes.

51. Further, the HKBA believes that in so far as the NPCSC Decision of 31 August 2014 imposes unreasonable restrictions that does not give full effect to the fundamental rights of HKSAR permanent residents guaranteed under the Basic Law and the ICCPR, there is therefore a solid legal reason to contend that any

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<sup>14</sup> HKBA’s Submission of 28 April 2014, paragraphs 41 to 44.

<sup>15</sup> See also the NPCSC Decision of 31 August 2014, Preamble, third paragraph.



HKSAR electoral legislation following the NPCSC Decision cannot and should not be regarded as “final” under the Basic Law and that there is and will definitely be a “need” for further amendments to Annex I to the Basic Law.

Dated: 6 March 2015.

HONG KONG BAR ASSOCIATION