

THE AMERICAN CHAMBER OF COMMERCE IN HONG KONG

Position Paper

Constitutional Development in Hong Kong

The Issue

What should be the pace and direction of constitutional development with respect to both the office of the Chief Executive and the Legislative Council of the Hong Kong Special Administrative Region (the HKSAR)?

American Chamber Position

The American Chamber of Commerce in Hong Kong supports adherence to the rule of law, and the development of a process that results in universal suffrage for the election of both the Chief Executive and the members of the Legislative Council that is consistent with the Basic Law of the HKSAR.

Rationale

The mission of the American Chamber is to foster commerce among the United States of America, Hong Kong and Mainland China, and to enhance Hong Kong's stature as an international business center. Among our core values are adherence to the rule of law, transparency and the free flow of information.

The Basic Law of the HKSAR enshrines the fundamental rules for implementing the "one country, two systems" principle. Essential to the implementation of this principle, and the specific authority that has been granted to the HKSAR to "exercise a high degree of autonomy", are the provisions within the Basic Law with respect to the Chief Executive and the Legislative Council. Articles 45 and 68 provide that the ultimate aim is the selection of the Chief Executive and Legislative Council by universal suffrage. Article 46 of the Basic Law provides that the term of office of the Chief Executive shall be five years.

Deliberations concerning how and when Hong Kong will achieve its aim of universal suffrage have generated local and international interest. Also, a question has arisen concerning the term of office of the Chief Executive to be selected in July 2005.

It is of paramount importance that the HKSAR acts in accordance with the Basic Law of the HKSAR. Faithful adherence to the rule of law is one of the foundations upon which Hong Kong's success has been built. It is not merely a matter of fairness and predictability for private commercial arrangements. It is vitally important to Hong Kong's future that the rule of law be continuously applied to all aspects of the constitutional development process. Where a provision of the Basic Law is clear it should be followed, unless amended as provided in the Basic Law. If

a provision is not clear, the process by which any ambiguity is resolved should be transparent and in accordance with the Basic Law and the rule of law.

The American Chamber supports an inclusive and transparent process. Such a process is good for Hong Kong, and for the confidence of those who invest in Hong Kong. The American Chamber also supports elections for the Chief Executive and for the Legislative Council in which the greatest number of eligible Hong Kong voters participate.

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