

## Chapter 1

# Constitution and Administration

*Fourteen years after the establishment of the Special Administrative Region, Hong Kong continues to enjoy a high degree of autonomy. The principle of 'one country, two systems' under which Hong Kong is administered, also gives its people the right to run the city. The Government keeps it that way by firmly adhering to the Basic Law, Hong Kong's constitution.*

Hong Kong became a Special Administrative Region of the People's Republic of China (PRC) on July 1, 1997. The Basic Law of the Hong Kong Special Administrative Region (HKSAR) came into effect on the same day. The Basic Law prescribes the systems to be practised in the HKSAR.

Under the Basic Law, the HKSAR enjoys a high degree of autonomy in accordance with the principle of 'one country, two systems'. The HKSAR exercises executive, legislative and independent judicial power, including that of final adjudication.

The HKSAR's executive authorities and legislature are composed of permanent residents of Hong Kong. The HKSAR remains a free port, a separate customs territory and an international financial centre and may, on its own, using the name 'Hong Kong, China', maintain and develop relations, and conclude and implement agreements with foreign states and regions, and relevant international organisations in the appropriate fields, including the economic, trade, financial and monetary, shipping, communications, tourism, cultural and sports fields.

### **Role of the Chief Executive**

The Chief Executive is the head of the HKSAR. He leads the Government of the HKSAR. He is responsible for implementing the Basic Law, signing bills and budgets passed by the Legislative Council, promulgating laws, making decisions on government policies and issuing executive orders. He is assisted by the Executive Council in policy-making.

## **The System of Government**

### **Executive Council**

The Executive Council is an organ for assisting the Chief Executive in policy making. Under Article 56 of the Basic Law, except for the appointment, removal and disciplining of officials and the adoption of measures in emergencies, the Chief Executive shall consult the Executive Council before making important policy decisions, introducing bills to the Legislative Council, making subordinate legislation, or dissolving the Legislative Council. The Chief Executive in Council also determines appeals, petitions and objections under those ordinances which confer a statutory right of appeal. If the Chief Executive does not accept a majority opinion of the Executive Council, he shall put the specific reasons on record.

As at December 31, the Executive Council had 28 members. As provided for in Article 55 of the Basic Law, members of the Executive Council shall be appointed by the Chief Executive from among the principal officials of the executive authorities, members of the Legislative Council and public figures. They are Chinese citizens who are permanent residents of the HKSAR with no right of abode in any foreign country. The membership of the Executive Council comprises 15 Principal Officials and 13 Non-Officials. Their appointment or removal is decided by the Chief Executive. The term of office of members of the Executive Council shall not extend beyond the expiry of the term of office of the Chief Executive who appoints them.

The Executive Council normally meets once a week and its proceedings are confidential, although many of its decisions are made public. The Chief Executive presides at its meetings. During the year, the Executive Council held a total of 37 meetings.

### **Legislative Council**

#### *Powers and Functions*

Under Article 73 of the Basic Law, the Legislative Council of the HKSAR shall exercise the following powers and functions:

- To enact, amend or repeal laws in accordance with the provisions of the Basic Law and legal procedures;
- To examine and approve budgets introduced by the Government;
- To approve taxation and public expenditure;
- To receive and debate the policy addresses of the Chief Executive;
- To raise questions on the work of the Government;
- To debate any issue concerning public interests;
- To endorse the appointment and removal of the judges of the Court of Final Appeal and the Chief Judge of the High Court;
- To receive and handle complaints from Hong Kong residents;

- If a motion initiated jointly by one-fourth of all the members of the Legislative Council charges the Chief Executive with serious breach of law or dereliction of duty and if he or she refuses to resign, the council may, after passing a motion for investigation, give a mandate to the Chief Justice of the Court of Final Appeal to form and chair an independent investigation committee. The committee shall be responsible for carrying out the investigation and reporting its findings to the council. If the committee considers the evidence sufficient to substantiate such charges, the council may pass a motion of impeachment by a two-thirds majority of all its members and report it to the Central People's Government for decision; and
- To summon, as required when exercising the above-mentioned powers and functions, persons concerned to testify or give evidence.

### *Composition*

Under the Basic Law, the Legislative Council of the HKSAR is constituted by election. The specific method of forming the Legislative Council is prescribed in Annex II of the Basic Law. The composition of the Legislative Council in the fourth term (i.e. from October 1, 2008 to September 30, 2012) is 60 members, comprising 30 members returned by geographical constituencies through direct elections and 30 members returned by functional constituencies representing various sectors of the community. The election for the Fourth Legislative Council was held on September 7, 2008. The President of the Legislative Council is elected by and from among members of the council.

### *Meetings of the Legislative Council*

The Legislative Council normally meets on Wednesdays. During the 2010-2011 legislative session (from October 2010 to July 2011), the Legislative Council held 37 meetings, four of which were the Chief Executive's Question and Answer Sessions.

The business of the Legislative Council at its regular meetings includes the tabling of subsidiary legislation, other papers and reports for the council's consideration; asking of questions for replies by the Government; introducing and considering bills and proposed resolutions, and debating motions concerning matters of public interest. All meetings of the council are open to the public. Members may address the council in Cantonese, English or Putonghua, with simultaneous interpretation provided. The proceedings are recorded verbatim in the Official Record of Proceedings of the Legislative Council.

During the 2010-2011 session, members asked 178 oral questions, including 11 urgent questions, on the work of the Government with 847 supplementary questions, and another 472 written questions. The council also passed 24 bills. The Government moved a total of 10 motions under the positive vetting procedure to seek the council's approval to either make or amend subsidiary legislation, nine of which were passed and one was negated. On subsidiary legislation subject to the negative vetting procedure, the council completed the scrutiny of 17 items which had been tabled in council in the 2009-2010 session, with two of them amended and one repealed by resolutions of the council. Of the 138 items tabled in the 2010-

2011 session, the council completed the scrutiny of 128 items, with 10 of them amended by resolutions of the council. The scrutiny of the remaining 10 items continued into the 2011-12 session. In addition, one technical memorandum and one revised code of practice were tabled in council for scrutiny, and both were amended by resolution of the council.

The Chief Secretary for Administration moved a motion under Article 73(7) of the Basic Law and section 7A of the Hong Kong Court of Final Appeal Ordinance for the council to endorse the appointment of two judges of the Hong Kong Court of Final Appeal from other common law jurisdictions. He also moved a motion under Article 73(7) of the Basic Law for the council to endorse the appointment of the Chief Judge of the High Court of Hong Kong. The two motions were passed by the council.

During the 2010-2011 session, three members' motions to amend the council's Rules of Procedure were moved, two of which were passed and one was negated. Another two members' motions to invoke the council's powers under the Legislative Council (Powers and Privileges) Ordinance were negated.

On the recommendation of the Committee on Members' Interests, a member's motion was moved under Rule 85 of the Rules of Procedure to admonish a member for failing to disclose the nature of his pecuniary interest in a matter before he spoke on the matter at certain meetings of a subcommittee pursuant to Rule 83A of the Rules of Procedure. The motion was negated.

In the 2010-2011 session, the council also debated 60 members' motions not intended to have legislative effect. In addition, four adjournment motions were moved for debating issues of urgent public importance or issues concerning public interest to elicit replies from designated public officers.

### *Finance Committee*

The Finance Committee consists of all members of the Legislative Council except the President. The committee's Chairman and the Deputy Chairman are elected from among its members. The committee normally meets in public on Friday afternoons to scrutinise and approve public expenditure proposals put forward by the Government. Its work includes the scrutiny of the annual Estimates presented by the Financial Secretary to the Legislative Council during the proceedings related to the Appropriation Bill, which sets out the Government's annual expenditure proposals for the following financial year. During the 2010-11 session, the Finance Committee held 35 meetings (including eight special meetings to examine the Estimates of Expenditure 2011-12) and examined a total of 65 items of proposals, including 14 items containing 70 proposals which had been considered and supported by its two subcommittees.

There are two subcommittees under the Finance Committee: the Establishment Subcommittee and the Public Works Subcommittee, which also conduct meetings in public. Membership of both is open to all members of the Finance Committee.

The Establishment Subcommittee examines and makes recommendations to the Finance Committee on the Government's proposals for the creation, redeployment and deletion of directorate posts, and for changes to the structure of grades and ranks in the Civil Service. During the 2010-11 session, the subcommittee held eight meetings and examined 19 Government proposals.

The Public Works Subcommittee examines and makes recommendations to the Finance Committee on the Government's expenditure proposals under the Capital Works Reserve Fund for projects in the Public Works Programme and building projects carried out by or on behalf of subvented organisations. During the 2010-11 session, the subcommittee held 13 meetings and examined 52 proposals, put forward by the Government.

### *Public Accounts Committee*

The Public Accounts Committee considers reports of the Director of Audit on the accounts of the Government and the results of his value-for-money audits of government departments and other organisations that are within the purview of public audit. It may invite government officials, public organisations or any other persons to attend public hearings to give explanations, evidence or information in the performance of the committee's duties. The seven members of the committee are appointed by the President of the Legislative Council in accordance with the election procedure determined by the council's House Committee.

During the 2010-11 session, the committee examined the Director of Audit's Report on the Accounts of the Government for the year ended March 31, 2010 and the reports on the results of Value-for-Money Audits (reports Nos. 55 and 56). The committee held 10 public hearings and 26 internal meetings during the period. The conclusions and recommendations of the committee are contained in the committee's reports Nos. 55 and 56, which were tabled in the council on February 16, 2011 and July 6, 2011 respectively. The Government Minutes in response to the two reports were tabled in the council on May 18, 2011 and October 19, 2011 respectively.

### *Committee on Members' Interests*

The Committee on Members' Interests consists of seven members who are appointed by the President of the Legislative Council in accordance with the election procedure determined by the council's House Committee. It considers complaints made in relation to members' registration and declaration of interests and their conduct concerning claims for the reimbursement of operating expenses or applications for an advance of operating funds. It also examines arrangements for the compilation, maintenance and accessibility of the Register of Members' Interests, considers matters of ethics in relation to the conduct of members in their capacity as such, and provides advice and issues guidelines on such matters.

During the 2010-11 session, the committee held two open meetings to consider advisory guidelines on matters of ethics in relation to members' conduct, the procedures for handling complaints received in relation to the registration or declaration of members' interests, or claims for the reimbursement of operating

expenses or applications for an advance of operating funds. The committee also held 18 closed meetings to consider complaints against several members.

At the council meeting on April 13, 2011, the committee presented a report on its deliberations on a complaint against a member in relation to his failure to register certain interests with the Clerk to the Legislative Council pursuant to Rule 83 of the Rules of Procedure. At the council meeting on June 22, 2011, the committee presented a report on its consideration of a complaint against three members. Two motions were moved at the council meeting on July 13, 2011, one was moved under Rule 85 of the Rules of Procedure to admonish one of the three members for failing to disclose the nature of his pecuniary interest in a matter before he spoke on the matter at several committee meetings pursuant to Rule 83A of the Rules of Procedure, and another on issues in relation to procedural rules on pecuniary interests was moved to enable members to express their views on these issues. Both motions were negated.

### *House Committee*

The House Committee, which consists of all members except the President, elects its Chairman and the Deputy Chairman. The committee normally meets on Friday afternoons and is responsible for dealing with matters related to the work of the Legislative Council and preparing members for council meetings. It decides whether bills committees or subcommittees should be formed to scrutinise bills, subsidiary legislation and other instruments made under an ordinance. During the 2010-11 session, the House Committee held 30 regular meetings.

The House Committee also holds special meetings to discuss issues of public concern. During the 2010-11 session, the House Committee held two special meetings to discuss the population policy review and the National 12th Five-Year Plan with the Chief Secretary for Administration.

### *Committee on Rules of Procedure*

The Committee on Rules of Procedure is responsible for reviewing the Rules of Procedure of the Legislative Council and the committee system, and for proposing to the council any amendments or changes considered necessary. The committee consists of 12 members who are appointed by the President of the Legislative Council in accordance with an election procedure determined by the council's House Committee.

During the 2010-11 session, the committee held five meetings to study a number of issues related to the procedural arrangements for council meetings and council committee procedures.

On the recommendation of the committee, three motions were moved in council to amend the Rules of Procedure, two of which were passed and one was negated. The two motions which were passed include a motion to amend Rule 58(2) of the Rules of Procedure to streamline the procedure for dealing with interdependent amendments to a bill during committee stage and a motion to amend Rules 44 and 45(2) to empower the chairman of any committee of the

council to order withdrawal of a member from a committee meeting on the ground of disorderly conduct of that member at the meeting. The motion which was negatived sought to amend Rule 45(1) to empower the chairman of any committee of the council to direct a member to discontinue his speech on the ground of the member's persistence in irrelevance or tedious repetition of his own or other members' arguments in the debate during a committee meeting.

### *Bills Committees*

Any member, other than the President, may join a bills committee formed by the House Committee to consider the general merits and principles of a bill allocated for scrutiny. A bills committee may also consider the detailed provisions of and amendments to the bill. It usually tables a report in council and is dissolved on the passage of the bill or when the House Committee so decides.

During the 2010-11 session, the House Committee set up 23 bills committees to scrutinise 24 bills introduced into the council, including the Stamp Duty (Amendment) (No.2) Bill 2010, Chief Executive Election (Amendment) Bill 2010, Legislative Council (Amendment) Bill 2010, Companies Bill, Lifts and Escalators Bill, Road Traffic (Amendment) Bill 2011, Legislative Council (Amendment) Bill 2011, Copyright (Amendment) Bill 2011 and Personal Data (Privacy) (Amendment) Bill 2011. A total of 36 bills committees, including 13 which were set up in the previous session, were in operation during the 2010-11 session.

### *Subcommittees on Subsidiary Legislation*

During the 2010-11 session, the House Committee formed 26 subcommittees to consider 46 items of subsidiary legislation, two other instruments, three proposed resolutions presented by the Government for the council's approval and an order made under section 78B of the Public Health and Municipal Services Ordinance.

### *Other Subcommittees*

The House Committee may also appoint subcommittees to assist its consideration of policy issues and any other matters relating to the business of the council. During the 2010-11 session, the House Committee appointed two subcommittees to consider issues relating to the power of the Legislative Council to amend subsidiary legislation and proposed senior judicial appointments respectively.

In addition, three subcommittees on policy issues or other council business appointed under the House Committee in the previous session continued to be in operation during the 2010-11 session, including the 'Subcommittee to Study Issues Arising from Lehman Brothers-related Minibonds and Structured Financial Products', which was authorised by the council on November 12, 2008 to exercise the powers conferred by section 9(1) of the Legislative Council (Powers and Privileges) Ordinance for the purpose of performing its function.

### *Panels*

The Legislative Council has established 18 panels to monitor and examine the Government's policies and issues of public concern that relate to their respective policy areas. These panels also give views on major legislative or financial proposals

before their introduction into the Legislative Council or the Finance Committee and examine relevant policy matters referred to them.

Panels may appoint subcommittees or joint subcommittees to study specific issues and to report to the panels. During the 2010-11 session, four such subcommittees were set up under panels, including the Subcommittee on Retirement Protection, Subcommittee on Improving Barrier Free Access and Facilities for Persons with Disabilities, Subcommittee on Registration of Proprietary Chinese Medicines and Joint Subcommittee on Issues Relating to Insurance Coverage for the Transport Sectors. Eight such subcommittees set up during the 2009-10 and 2008-09 sessions are still in operation. These included the Subcommittee on Combating Fly-tipping, Subcommittee on Residential and Community Care Services for Persons with Disabilities and the Elderly, Subcommittee on Building Safety and Related Issues, Subcommittee on Matters Relating to Railways, Subcommittee on Harbourfront Planning, Subcommittee on Improving Air Quality, Joint Subcommittee to Monitor the Implementation of the West Kowloon Cultural District Project and Joint Subcommittee on Amendments to Land Titles Ordinance.

### *Select Committees*

The Legislative Council may appoint select committees to enable members to consider matters or bills. Select committees report to the council after they have completed consideration of such matters or bills.

### *Investigation Committee established under Rule 49B(2A) of the Rules of Procedure in respect of the Motion to censure Honourable Kam Nai-wai*

The Investigation Committee established under Rule 49B(2A) of the Rules of Procedure in respect of the Motion to censure Honourable Kam Nai-wai is responsible for establishing the facts stated in the motion moved under Rule 49B(1A) (Disqualification of Member from Office) on December 9, 2009, and giving its views on whether or not the facts as established constitute grounds for the censure.

The Investigation Committee consists of seven members who were elected by council members in accordance with an election procedure determined by the House Committee, and appointed by the President.

During the 2010-11 session, the Investigation Committee held 21 closed meetings and five hearings in camera.

### *Redress System*

The Legislative Council operates a redress system under which members of the public may seek assistance for redressing any grievance resulting from government actions or policies, and lodge complaints against government departments and other organisations. In groups of six, members take turns to be on duty each week to oversee the redress system and to give guidance to staff of the Complaints Division of the Legislative Council Secretariat in processing cases. Members take turns to be on 'ward duty' at the Public Complaints Office during their duty week to meet deputations and individual complainants by appointment. It is for duty roster members to decide whether and when an interview should be arranged.



### *The Legislative Council Commission and Legislative Council Secretariat*

The Legislative Council Commission is a statutory body independent of the Government. It is chaired by the President of the Legislative Council. In the 2010-11 session, the commission comprised 12 members, including the chairman. Its main function is to provide administrative support and services to the Legislative Council through the Legislative Council Secretariat. It is empowered to employ staff of the Legislative Council Secretariat and oversee its work, determine the organisation and administration of support services and facilities, formulate and execute policies on their effective operation and expend funds in ways it sees fit to support these activities.

The Legislative Council Secretariat is headed by the Secretary General. Its mission is to provide the council and its committees with professional and efficient support and services, enhance community understanding of the activities of the council and ensure an effective avenue for redress.

## **Tamar Development Project**

### *Overall Design*

The Tamar Development Project covers the design and construction of the Chief Executive's Office (CEO), the Central Government Offices (CGO), the Legislative Council Complex, an extensive open space and two elevated walkways. Together, they form a prime civic core and a new Hong Kong landmark.

The architecture is based on four concepts – *door always open, land always green, sky will be blue and people will be connected* – that reflects the Government's notion of governance and the people's vision of the city –

- *'Door Always Open'* — portrays Hong Kong as a city always open and receptive to new ideas and a city of diverse cultures;
- *'Land Always Green'* — reflects Hong Kong's aspiration for a lasting green environment;
- *'Sky Will Be Blue'* — establishes Hong Kong's commitment to combating air pollution; and
- *'People Will Be Connected'* — depicts the Tamar site as an accessible, pleasant gathering place and pathway for leisurely strolls.

To bring the above concepts to life, the CGO building is designed to look like a prominent open gateway, or 'Open Door', with lush greenery, forming a 'Green Carpet', that runs from Admiralty to the picturesque waterfront. Work on the Tamar Development Project started in 2008 and was completed in 2011.

### *CEO and CGO*

The Chief Executive's office, which also accommodates the Executive Council Chamber and its secretariat, is located at the western end of the Tamar site, while the CGO is located at the southern edge, housing the policy bureaux. Having them close to each other improves efficiency and enhances the Government's service to the public.

### *Open Space*

Half of the Tamar site is open space embellished by an expansive green lawn (the Green Carpet) at the centre, and other attractions which include an amphitheatre, water pond, floating platform, and a garden.

Together, they form what is called 'Tamar Park'.

### *The New Legislative Council Complex*

The Legislative Council Complex is built by the Government to house the Legislature as part of the Tamar Development Project which started construction in early 2008. The offices of the Legislative Council Secretariat and Members' Offices were relocated to the complex in September 2011. The Chief Executive's 2011-12 Policy Address was delivered in the complex's chamber at the council meeting held on October 12, 2011 when the 2011-12 legislative session commenced.

The Legislative Council Complex is the first purpose-built building for the Hong Kong's Legislature. The new Legislative Council Complex, located on '1 Legislative Council Road', marks a new page in the history of the Legislature of Hong Kong.

The design concept of the Legislative Council Complex is to show the independent and special status, as well as the transparent and dignified image of Hong Kong's Legislature. The profound meaning of 'heaven being round and earth being square' mentioned in traditional Chinese culture has been integrated into the design of the complex, which better reflect the image of a legislature.

According to the designer's design concept, 'square' denotes restraints and 'round' denotes changes. When applied to the characteristics of the Legislative Council, 'square' can mean solemnity and prudence and 'round' can mean openness and empathy. These are basic elements which are crucial and essential for the Legislative Council to play an important role in the political development of Hong Kong. The interior design of the lobby halls and conference rooms of the complex have strategically employed this concept in their themes. As the centerpiece of the complex, the chamber for council meetings is expressed in a conical form that signifies inclusivity, multi-facetness, openness, dynamism and democratic supervision.

Reference has been made to the experiences of the parliament buildings of Germany, Belgium, the UK and the European Parliament when designing the Legislative Council Complex. During the complex's construction, important elements such as environmental protection and energy conservation were of course not ignored. Be it the natural light funnel in the chamber to bring in natural daylight, or the use of wood materials with low emission of Formaldehyde and materials with low volatile organic compounds, motion sensor control, water saving devices,

automated waste collection system, as well as the use of recycling rainwater for irrigation purpose, all these demonstrate how the Legislative Council and its members care about the environment and treasure the natural resources.

## **District Administration**

The District Administration Scheme started in 1982 with the establishment of a District Board and a District Management Committee in each district. Through the scheme, the Government promotes public participation in district affairs and fosters a sense of belonging and mutual care among the people of Hong Kong. The scheme also helps to ensure that the Government is responsive to district needs and problems. Following a 1998 review of the structure and functions of district organisations, District Boards were renamed District Councils (DC) in 2000 to underline their important role in reflecting public opinion and monitoring the delivery of public services at district level.

The fourth term of the DCs will commence on January 1, 2012. There are a total of 507 members, including 412 elected members, 68 appointed members and 27 ex officio members (chairmen of rural committees in the New Territories), in the councils. The term of office of these council members is four years starting from January 2012.

The main function of the DCs is to advise the Government on matters affecting the well-being of the people living and working in the districts as well as on the provision and use of public facilities and services within the districts. The Government also consults the DCs on a wide range of issues. The DCs carry out district minor works projects and community involvement projects.

The Government conducted a review of DC functions and composition in 2006 and launched in 2007 a pilot scheme that sought to strengthen the role of the DCs in managing some district facilities. A series of measures to improve district work was implemented by the Government in January 2008 in partnership with all 18 DCs. In addition, the Government has allocated annual provision of \$300 million for DCs to carry out community involvement activities and another \$300 million for district minor works projects.

Also in January 2010, a one-off funding of \$180 million was approved for a 'Vibrant People, Harmonious Community Activities' programme, of which \$108 million was allocated to 18 DCs to help local organisations launch a wide variety of community activities with themes such as 'Sports for All', 'Arts for All', 'Cultural/Ecological Tourism for All' and 'Care for All'. The remaining funds were allocated to Government departments to co-ordinate the launching of cross-district or cross-sector community activities, to employ contract staff to help the councils carry out those tasks and for publicity. About 1 000 activities were organised under the programme in 2010 and 2011, and community response was positive.

To foster regular dialogue between senior government officials and the DCs, 22 heads of departments, who have direct interface with the public, started attending meetings with DCs separately since January 2007, giving briefings on territory-wide planning, development and matters of interest to the DCs.

Since 2008, the Summits on District Administration have been held periodically to provide a platform for senior Government officials and DC members to share best practices and exchange views on district administration. The first and second summits (including four regional forums and a reporting session) were held smoothly in May 2008 and June/July 2010 respectively. The summits were attended by the Chief Executive, bureau directors and department heads concerned and DC members.

To maintain a direct dialogue with local residents, each DC operates a meet-the-public scheme, under which residents can meet council members face-to-face to express their views on district matters. In addition, many DC members run ward offices to keep in touch with their constituents and to better cater to the needs of their respective communities.

Each district has a District Management Committee, chaired by a District Officer. It comprises the chairman, vice-chairman and committee chairmen of the DC as well as representatives of Government departments providing essential services in the district. The District Management Committee serves as a forum for consultation, co-ordination and collaboration between different departments and the DC to help resolve inter-departmental district issues and to ensure that district needs are met promptly.

There are 63 Area Committees set up in districts to help organise community involvement activities and to advise on local issues to promote public participation in district affairs. Twenty Public Enquiry Service Centres, attached to the District Offices, provide a wide range of free services to the public. These services include answering general enquiries about government services, distributing government forms and disseminating information and administering declarations.

The Public Enquiry Service Centres are also referral agencies of the Free Legal Advice Scheme administered by Duty Lawyer Service. Members of the public wishing to seek free legal advice under the scheme can go to any of them to make appointments to see volunteer lawyers.

Rent Officers from the Rating and Valuation Department are also available at five designated Public Enquiry Service Centres on specified days to advise on tenancy matters. The Public Enquiry Service Centres and the Central Telephone Enquiry Centre served a total of 2.1 million clients in 2011.

## The Electoral System

### *Electoral System for the Legislative Council*

The composition of the first three terms of the Legislative Council as set out in the Basic Law is as follows:

<b>Membership</b>	<b>First term (1998-2000)</b>	<b>Second term (2000-2004)</b>	<b>Third term (2004-2008)</b>
(a) elected by geographical constituencies through direct elections	20	24	30
(b) elected by functional constituencies	30	30	30
(c) elected by an election committee	10	6	—
	—	—	—
	60	60	60

The composition of the fourth-term (2008-2012) Legislative Council is the same as that of the third-term. The number of Legislative Council members to be returned by geographical constituencies and functional constituencies will be increased to 35 for the fifth-term (2012-2016) Legislative Council.

### *Geographical Constituency*

Geographical constituency elections are held on the basis of universal suffrage. All eligible persons aged 18 or above have the right to be registered as electors and to vote in the elections. There are currently about 3.56 million registered electors.

The HKSAR is divided into five geographical constituencies of four to eight seats in the fourth-term of the Legislative Council. In the fifth-term of the Legislative Council, the number of geographical constituencies remains five and the number of seats for each of the five geographical constituencies is to be a number not less than five nor greater than nine. Electors choose lists of candidates, using the List Voting System which operates under the Largest Remainder formula, a form of proportional representation.

Any permanent resident of the HKSAR who is a Chinese citizen with no right of abode in any foreign country may stand for election in any geographical constituency, provided that he or she is a registered elector on the Final Register, has attained the age of 21, and has ordinarily resided in Hong Kong for the preceding three years.

### *Functional Constituency*

Each functional constituency represents an economic, social or professional group important to the HKSAR. For the fourth-term Legislative Council, these are: (1) Heung Yee Kuk<sup>1</sup>; (2) agriculture and fisheries; (3) insurance; (4) transport; (5) education; (6) legal; (7) accountancy; (8) medical; (9) health services; (10) engineering; (11) architectural, surveying and planning; (12) labour; (13) social welfare; (14) real estate and construction; (15) tourism; (16) commercial (first); (17) commercial (second); (18) industrial (first); (19) industrial (second); (20) finance; (21) financial services; (22) sports, performing arts, culture and publication; (23) import and export; (24) textiles and garment; (25) wholesale and retail; (26) information technology; (27) catering; and (28) District Council (first). The labour functional constituency returns three Legislative Council members, while the other 27 functional constituencies return one member each.

The electorate of functional constituencies which represent professional groups is generally based on membership of professions with recognised qualifications, including statutory qualifications. The electorate of functional constituencies representing economic or social groups is generally made up of corporate members of major organisations representative of the relevant sectors.

To become a candidate in the functional constituencies, one must satisfy the same age and residential requirements as in a geographical constituency election, be a registered elector on the Final Register, and also a registered elector of or have a substantial connection with the relevant functional constituency. To give due recognition to the significant contribution made by foreign nationals and the fact that Hong Kong is an international city and to meet the requirement of the relevant provision in the Basic Law, permanent residents of the HKSAR who are not of Chinese nationality or who have the right of abode in foreign countries may stand for election in 12 designated functional constituencies (functional constituencies No. 3, 6, 7, 10, 11, 14, 15, 16, 18, 20, 21, 23 as above).

There will be a new District Council (second) functional constituency with five seats for the fifth-term Legislative Council. The five seats will be returned as a single constituency for the whole of Hong Kong in accordance with the proportional representation list system. Candidates must be elected District Council members who must be nominated by no less than 15 other elected District Council members. As for the electors, they are registered geographical constituency electors other than those registered in the other functional constituencies.

The election for the fourth-term Legislative Council was held on September 7, 2008. Over 1.52 million registered electors cast their votes on polling day, representing a turnout rate of 45.2 per cent. The election for the fifth-term Legislative Council will be held in September 2012.

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<sup>1</sup> A statutory advisory body on New Territories affairs.

### *Electoral System for the Chief Executive*

In accordance with the Basic Law, the Chief Executive shall be elected by an Election Committee (EC). The EC for the term up to January 2012 is composed of 800 members from four sectors which are in turn composed of 38 subsectors.

The election of the third-term Chief Executive by the EC was held on March 25, 2007. Mr Donald Tsang Yam-kuen was declared as returned at the election. On April 2, 2007, in accordance with the provisions of the Basic Law and the outcome of the election by the EC, the State Council of the PRC appointed Mr Tsang as the third-term Chief Executive, with his term of office commencing on July 1, 2007.

From February 2012, the number of EC seats will be increased to 1 200, comprising:

- 1 034<sup>2</sup> members of 35 subsectors who are returned through elections;
- 106<sup>2</sup> ex officio members who are Hong Kong deputies to the National People's Congress (NPC) and members of the Legislative Council under the NPC subsector and the Legislative Council subsector respectively; and
- 60 members under the religious subsector who are nominated by six designated bodies.

The 2011 EC subsector elections were held on December 11, 2011. The new EC, with its term of office commencing on February 1, 2012, will elect the fourth-term Chief Executive on March 25, 2012. The term of office of the fourth-term Chief Executive will commence on July 1, 2012.

### *Timetable for Universal Suffrage and Amendments to Methods for Selecting the Chief Executive and Forming the Legislative Council in 2012*

There is now a clear timetable for attaining universal suffrage in Hong Kong. The Standing Committee of the National People's Congress (NPCSC) promulgated a decision on December 29, 2007 making it clear that the Chief Executive may be elected by universal suffrage in 2017 and that the Legislative Council may be formed by universal suffrage in 2020. The NPCSC has made a positive response to the democratic aspirations of the people of Hong Kong. As reflected in opinion polls conducted by universities, the NPCSC decision was well accepted by the community. The NPCSC decision has also determined that appropriate amendments conforming to the principle of gradual and orderly progress may be made to the two electoral methods in 2012.

The proposed package for the 2012 elections was passed by a two-thirds majority in the Legislative Council, given consent by the Chief Executive and endorsed by the NPCSC in the summer of 2010. This is an important milestone for

<sup>2</sup> Since the number of the Legislative Council seats will increase from 60 to 70 in October 2012 when the fifth-term Legislative Council commences, 10 seats of 'Special Member' would be created temporarily in the fourth sector of the EC to make up the difference of 10 seats until the number of the Legislative Council seats increases to 70 in October 2012. As such, from February to September 2012, 1 044 members of the EC will be returned through elections for 35 subsectors and the number of seats for ex officio members of the EC will be 96.

Hong Kong's constitutional development. For the first time since the establishment of HKSAR, the city has managed to complete the 'five-step mechanism'<sup>3</sup> as set out in the Basic Law and the Interpretation by the NPCSC of Article 7 of Annex I and Article III of Annex II to the Basic Law and its decision on issues relating to the methods for selecting the Chief Executive in the year 2007 and for forming the Legislative Council in the year 2008 to amend the electoral methods for the Chief Executive and the Legislative Council. This will give the Hong Kong community greater confidence in and a stronger basis for forging consensus on constitutional development in future and pave the way for implementing universal suffrage with regard to electing the Chief Executive and the Legislative Council in 2017 and 2020 respectively.

The passage of the Chief Executive Election (Amendment) Bill 2010 and the Legislative Council (Amendment) Bill 2010 by the Legislative Council on March 3 and 5, 2011 respectively implements the constitutional reform package in respect of the 2012 Chief Executive and Legislative Council elections. The enactment of such local legislation enables Hong Kong to move step by step towards the ultimate aim of universal suffrage.

### *Electoral System for the District Councils*

Eighteen District Councils were established in the HKSAR to advise the Government on district affairs and to promote recreational and cultural activities, and environmental improvements within the districts. A District Council is composed of elected members, appointed members, and, in the case of District Councils in the New Territories, the chairmen of rural committees as ex officio members. The simple majority voting system is adopted for elections. For the fourth-term councils (2012 – 2015), the HKSAR is divided into 412 constituencies, each represented by one elected member.

### *Electoral Affairs Commission*

The Electoral Affairs Commission, an independent statutory body, is responsible for ensuring that elections in the HKSAR are conducted openly, honestly, fairly and in accordance with the law. It comprises three politically neutral persons appointed by the Chief Executive and is headed by a High Court judge. The commission is responsible for making recommendations to the Chief Executive on the delineation of geographical constituencies and District Council constituencies, making

<sup>3</sup> The 'five-step mechanism' to amend the two electoral methods are:

- Step One: The Chief Executive shall make a report to the NPCSC as to whether there is a need to amend the two electoral methods;
- Step Two: A determination shall be made by the NPCSC that the two electoral methods may be amended;
- Step Three: The motions on the draft amendments to the two electoral methods shall be introduced by the HKSAR Government to the Legislative Council, and be passed by a two-thirds majority of all the members of the Legislative Council;
- Step Four: Consent shall be given by the Chief Executive to the draft amendments endorsed by the Legislative Council; and
- Step Five: The draft amendments shall be reported by the Chief Executive to the NPCSC for approval or for the record.



regulations on practical arrangements for the Chief Executive election, the Legislative Council election, the District Council election and rural elections, and handling complaints relating to these elections. The Registration and Electoral Office, a government department headed by the Chief Electoral Officer, works under the commission's direction and carries out its decisions.

### **HKSAR's External Affairs**

The HKSAR continues to play an active role in the international arena and maintains close contact with its international partners.

In 2011, representatives of the HKSAR Government, as members of the PRC delegation, took part in over 130 international conferences limited to states, including those organised by the World Intellectual Property Organisation, the World Health Organisation and the International Civil Aviation Organisation. The HKSAR also took part in over 1 650 inter-governmental conferences not limited to states in the capacity of 'Hong Kong, China', including those organised by the World Trade Organisation, Asia-Pacific Economic Co-operation and the World Customs Organisation.

In accordance with Article 151 of the Basic Law, the HKSAR concluded nine agreements with foreign states in 2011 on matters in relation to the avoidance of double taxation, free trade, labour co-operation, and agriculture. Pursuant to the decision of the Central People's Government (CPG), after seeking the views of the HKSAR Government, two multilateral conventions became applicable to the HKSAR in 2011. They are the Convention on Biological Diversity 1992 and the Cartagena Protocol on Biosafety to the Convention on Biological Diversity 2000.

Active participation in international activities and close liaison with international partners have enabled the HKSAR to maintain its status as an international financial, trade, civil aviation and shipping centre.

There is a large foreign representation in the HKSAR, including 59 consulates-general, 62 consulates and five officially recognised international bodies.

### **Working Relationship of the HKSAR Government with the Office of the Commissioner of the Ministry of Foreign Affairs (MFA Office)**

The HKSAR Government continues to work closely with the MFA Office in Hong Kong, which was established by the CPG, in the following areas:

- (a) participation in international organisations and conferences, such as obtaining the CPG's approval for HKSAR Government officials to participate as members of the PRC delegation in international conferences limited to states;
- (b) negotiation and conclusion of international agreements, such as obtaining the CPG's specific authorisation for the negotiation and conclusion of agreements with foreign states in accordance with the relevant provisions of the Basic Law;

- (c) consular protection for Hong Kong people in distress overseas; and
- (d) matters relating to consular missions in the HKSAR. The establishment of foreign consular and other official or semi-official missions is a matter for the MFA Office. The HKSAR Government is responsible for the day-to-day management of the consular corps.

### **Working Relationship with the Mainland Authorities**

The Government continues to maintain a cordial working relationship with the CPG and other Mainland authorities. This is enhanced through visits, meetings, seminars and other exchanges.

The Hong Kong and Macao Affairs Office of the State Council (HKMAO) assists the HKSAR Government in developing contacts with the Mainland authorities. The Government also liaises closely with the HKMAO on matters of mutual concern and on arrangements for official visits between the Mainland and Hong Kong. Article 22 of the Basic Law provides that no department of the CPG and no province, autonomous region, or municipality directly under the Central Government may interfere in the affairs which the HKSAR administers on its own in accordance with the Basic Law.

The Constitutional Affairs Bureau was retitled Constitutional and Mainland Affairs Bureau with effect from July 1, 2007 to reflect more clearly one of the bureau's key functions: co-ordinating and promoting closer ties and co-operation with the Mainland. The bureau is responsible for co-ordinating contacts between the HKSAR Government and the Mainland authorities, promoting regional co-operation initiatives between Hong Kong and the Mainland, as well as overseeing the operation of HKSAR Government's Mainland Offices.

Officially promulgated in March 2011, the National 12th Five-Year Plan has unprecedentedly included a dedicated chapter on the Hong Kong and Macao Special Administration Regions (the Dedicated Chapter). The Dedicated Chapter elaborates on the significant functions and positioning of the HKSAR in the country's development strategy. This is a significant breakthrough in Hong Kong's efforts in complementing the implementation of the National 12th Five-Year Plan.

In August 2011, the Vice-Premier of the State Council, Mr Li Keqiang, visited Hong Kong and announced a series of policies and measures (New Supporting Policies and Measures) formulated by the CPG to support Hong Kong in further developing and deepening its co-operation with the Mainland, thus providing a solid policy framework for the HKSAR in complementing the implementation of the National 12th Five-Year Plan.

The Dedicated Chapter and the New Supporting Policies and Measures signify the CPG's strong support for maintaining the long-term prosperity and stability of Hong Kong and provide a historic opportunity for the future development of Hong Kong. The HKSAR Government will continue to implement the Dedicated Chapter and the New Supporting Policies and Measures by liaising with the relevant Mainland authorities and taking forward the various regional co-operation initiatives.

As the province closest to Hong Kong, Guangdong has the most extensive ties with the HKSAR. Since the establishment of the Cross-boundary Liaison System in 1982, the two sides have maintained close liaison to discuss and resolve issues of mutual concern, such as cross-boundary crime, the improvement to the Shenzhen River on flood prevention, the collection, treatment and discharge of sewage.

The importance of Hong Kong/Guangdong Co-operation has been greatly enhanced in recent years. With the promulgation of the 'Outline of the Plan for the Reform and Development of the Pearl River Delta' by the National Development and Reform Commission in January 2009, co-operation between Hong Kong and Guangdong was formally elevated to the national strategic level. To translate the macro policies in the outline into concrete measures, Hong Kong and Guangdong signed the Framework Agreement on Hong Kong/Guangdong Co-operation (Framework Agreement) in the presence of State Leaders in April 2010. This is the first agenda on Hong Kong/Guangdong Co-operation ever endorsed by the State Council. The National 12th Five-Year Plan emphasises the importance of deepening Hong Kong/Guangdong Co-operation and the implementation of the Framework Agreement, and reaffirms the development positions of the two places as set out in the Framework Agreement. The implementation of initiatives under the Framework Agreement is progressing well.

At the Hong Kong/Guangdong Co-operation Joint Conference held in August 2011, the two sides agreed to enhance the overall competitiveness of the region through closer co-operation in various aspects, such as in formulating regional co-operation plans, co-operating in rendering financial services, in commerce and trade, building cross-boundary infrastructure, travel facilitation, education, medical services, environmental protection and tourism.

Developing Qianhai is one of the key co-operation areas under the Framework Agreement, and is listed as one of the major co-operation projects between Hong Kong and Guangdong in the National 12th Five-Year Plan. Since the State Council's approval of the Overall Development Plan on Hong Kong/Shenzhen Co-operation on Modern Service Industries in Qianhai Area in August 2010, the HKSAR Government had been maintaining close contact with the Shenzhen authorities on the study and formulation of policies relating to Qianhai's development. The HKSAR Government will continue to adopt the arrangements made under the Inter-ministries Joint Conference on the Development of Qianhai Area in Shenzhen, and other platforms to communicate with respective ministries and reflect the opinions of Hong Kong's business sectors, to assist them in capitalising on the opportunities created by the development of Qianhai, contributing to the development of the nation's service industries, and realising Qianhai's designation as a Hong Kong/Guangdong modern service industry innovation and co-operation exemplary zone.

Nansha is another key co-operation area under the Framework Agreement. To push forward the development of Nansha, the HKSAR Government and the Guangzhou Municipal People's Government signed a letter of intent in August 2011. A Hong Kong/Guangzhou Co-operation Working Group was set up to explore co-operation between the two places focusing on upgrading and transforming the

processing trade in which Hong Kong has an investment, developing an exemplary zone for implementation of CEPA and relevant early and pilot measures, and exploring co-operation in social services.

A 2011 Hong Kong/Shenzhen Co-operation Meeting was convened in November in Hong Kong. The two sides reviewed the past year's progress and conducted in-depth discussions on co-operation in a number of key areas, such as Qianhai's development, financial services, trade, industries, cross-boundary infrastructure and livelihood issues. The two sides also made steady progress in co-operating in tourism, creative industry, innovative technology, testing and certification, cultural exchange, and civil servant exchange.

The Greater Pearl River Delta Business Council is a platform for the private sector to discuss issues related to regional co-operation in the Greater Pearl River Delta. The Council maintains close contact with the Guangdong branch of the China Council for the Promotion of International Trade, and Guangdong's Association for Promotion of Co-operation between Guangdong, Hong Kong and Macao to exchange views on matters of mutual concern.

In response to the target set by the Vice-Premier of the State Council, Mr Li Keqiang, to achieve through CEPA full liberalisation of trade in services between the Mainland and Hong Kong by the end of the National 12th Five-Year Plan period, the Council formed an ad hoc group in September 2011 to conduct a study on achieving this goal. Following meetings with representatives of different chambers, enterprises and organisations in Hong Kong to collect their views, the ad hoc group prepared a study report with recommendations on further expansion of CEPA and submitted it to the relevant authorities in Hong Kong and in the Mainland for their consideration.

The HKSAR Government continues to promote strongly the restructuring, upgrading and relocation of Hong Kong-invested factories in the Pan-Pearl River Delta (PPRD) region. During the year, the Hong Kong Economic and Trade Offices (ETOs) in the Mainland organised visits to relevant provinces in the region for Hong Kong businessmen to enable them to get first hand information on the business opportunities in the PPRD. Hong Kong adopted focused strategies in advancing its co-operation with the PPRD region in areas, including tourism, upgrading and transforming manufacturing industries, as well as in multi-dimensional co-operation, taking into account the economic development of the provinces concerned. Hong Kong continued to participate actively in the PPRD Regional Co-operation and Development Forum, and took part in the 7th Forum and the Chief Executives' Joint Conference held in September in Nanchang, Jiangxi, to discuss ways of fostering regional co-operation during the National 12th Five-Year Plan period.

Hong Kong and Shanghai continued to develop multi-dimensional co-operation in areas of commerce and trade; financial services; civil aviation, maritime and logistics; tourism, etc. During the year, Hong Kong and Shanghai jointly promoted

the opportunities brought by the internationalisation of Renminbi. Hong Kong also participated in the Marintec China 2011 held in Shanghai in November through setting up a Hong Kong Pavilion. Built on the participation in the Expo 2010 Shanghai China, the exchange between the culture and art sectors of both places continued to flourish. The two sides engaged in close dialogue to prepare for the Second Plenary Session of the Hong Kong/Shanghai Economic and Trade Co-operation Conference, to be held in Shanghai in January 2012.

The Financial Secretary led a HKSAR delegation to participate in the 15th Beijing-Hong Kong Economic Co-operation Symposium held in Beijing in October. The HKSAR and Beijing discussed the further implementation of the consensus reached at the Third Plenary Session of the Hong Kong/Beijing Economic and Trade Co-operation Conference in 2010. They also exchanged views on enhanced co-operation in areas of financial services; tourism; commerce, trade and investment; as well as other livelihood related issues.

To follow up and take forward the 191 projects led by the HKSAR Government and non-governmental organisations in support of the post-earthquake reconstruction works in Sichuan, the HKSAR Government and the Sichuan Provincial Government have set up a liaison and co-ordination mechanism. The mechanism includes a high-level co-ordination group led by the Chief Secretary for Administration of the HKSAR Government and the Vice-Governor of the Sichuan Provincial Government, a co-ordination group formed by representatives from the relevant bureaux and departments of the Governments of both places, and dedicated project groups for individual areas of projects (such as medical services, education, social welfare and Wolong Natural Reserve Projects). In 2011, the Constitutional and Mainland Affairs Bureau continued to co-ordinate cross-bureaux efforts, closely communicate with the Sichuan Provincial Government, and liaise with the relevant Hong Kong professional and non-governmental organisations (NGOs) to ensure the effective use of support funds and the timely implementation of reconstruction projects. As at end-2011, 71 Government-led and 20 NGO projects had been completed.

### **Working Relationship with Macao Special Administrative Region**

To strengthen co-operation between Hong Kong and Macao, the two sides established a liaison officers' system under which representatives from the respective bureaux or departments would serve as liaison officers in various co-operation areas. In July 2011, the Financial Secretary and Macao's Secretary for Economy and Finance co-chaired the Fourth Hong Kong-Macao Co-operation High Level Meeting in Hong Kong. The Meeting reviewed the progress in Hong Kong and Macao's co-operation and shared experience in collaborating with the Mainland authorities in taking forward regional co-operation. Both sides agreed to deepen and explore new areas of co-operation between the two places to contribute to the sustainable development of the nation.

## **HKSAR's Offices in the Mainland**

The HKSAR Government has four offices in the Mainland: the Beijing Office and three ETOs in Guangdong, Shanghai and Chengdu<sup>4</sup>. These offices are mainly responsible for enhancing liaison and communications with the CPG and other Mainland authorities; strengthening Hong Kong's economic and trade ties with the Mainland; promoting Hong Kong and encouraging and attracting investments to Hong Kong. The Beijing Office and Guangdong ETO have their own Immigration Divisions which provide practical assistance to Hong Kong residents in distress or seeking assistance in the Mainland and handle immigration matters. A Shenzhen Liaison Unit under the Guangdong ETO has been in operation since August 2010 to enhance co-operation with Shenzhen. The unit also provides assistance to Hong Kong enterprises in Shenzhen. In 2011, preparations were in hand to establish a Chongqing Liaison Unit and a Fujian Liaison Unit under the Chengdu ETO and Guangdong ETO to deepen our co-operation with the Chengdu-Chongqing Economic Zone and the Economic Zone on the West Coast of the Taiwan Strait respectively, and to explore new business opportunities for Hong Kong enterprises. For details of the promotional activities organised by the Beijing Office and the three ETOs in the Mainland, please refer to Chapter 17 (Communications, the Media and Information Technology: section on Promoting Hong Kong Worldwide).

## **Exchanges with Taiwan**

Hong Kong and Taiwan have close economic and cultural ties. Taiwan is Hong Kong's fourth largest trading partner. In 2011, bilateral trade amounted to \$326.2 billion (around US\$41.9 billion), and around 2.15 million people from Taiwan visited Hong Kong.

Since the establishment of the Hong Kong-Taiwan Economic and Cultural Co-operation and Promotion Council (ECCPC) and its Taiwanese counterpart, Taiwan-Hong Kong Economic and Cultural Co-operation Council (THEC), the HKSAR has continued to promote exchanges and enhance co-operation with Taiwan through the ECCPC-THEC platform.

2011 was an important year for Hong Kong's exchanges with Taiwan. Further to the opening of the Hong Kong Tourism Board's Taipei Office in September 2011, the multi-functional Hong Kong Economic, Trade and Cultural Office (HKETCO) commenced operation in Taiwan on December 19, 2011. The establishment of the HKETCO has laid a firm basis for the long-term development of closer economic and cultural relations between Hong Kong and Taiwan.

Apart from the opening of the offices, considerable outcomes were achieved through the ECCPC-THEC platform on other fronts.

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<sup>4</sup> The Beijing Office covers Beijing, Tianjin, Hebei, Henan, Shandong, Shanxi, Liaoning, Jilin, Heilongjiang, Inner Mongolia, Xinjiang, Gansu, Ningxia, Qinghai and Tibet. The Guangdong ETO covers Fujian, Jiangxi, Guangdong, Guangxi, and Hainan. The Shanghai ETO covers Zhejiang, Jiangsu, Anhui, Hubei and Shanghai. The Chengdu ETO covers Sichuan, Yunnan, Guizhou, Shaanxi, Hunan and Chongqing.

In May 2011, the Cultural Co-operation Committee under ECCPC held the first Hong Kong-Taiwan Cultural Co-operation Forum with 'Forming Cultural Co-operation Platform, Building Chinese Creative Branding' as the theme. At the forum, Hong Kong and Taiwan mapped out an action agenda that aimed to deepen mutual understanding on the development of cultural and creative industries, and to facilitate concrete co-operation directions and plans for these industries.

In August 2011, the ECCPC and the THEC held its second joint meeting in Hong Kong, at which consensus was reached on new priority areas of co-operation including insurance regulation, education and legal co-operation on civil and commercial matters. In the same month, the Hong Kong Monetary Authority and the Taiwan Financial Supervisory Commission signed a memorandum of understanding for banking supervisory co-operation between the two authorities.

To facilitate the entry of Taiwan visitors for business or leisure in Hong Kong, with effect from September 1, 2011, the duration of stay for holders of a valid Mainland Travel Permit for Taiwan Residents has been extended from seven days to 30 days.

To promote exchanges and co-operation between Hong Kong and Taiwan particularly on cultural and creative sectors, the ECCPC Chairman led a delegation to visit Taipei in October 2011 to participate in the International Design Alliance congress; and the THEC Chairmen led a delegation to visit Hong Kong in November 2011 to attend events of the Business of Design Week organised by the Hong Kong Design Centre.

On December 30, both sides signed an air services arrangement, which increased the flight frequency, number of destinations, and passenger and cargo capacities between Hong Kong and Taiwan. Not only will the arrangement benefit the development of the aviation, freight and tourism industries of the two places, it will also strengthen Hong Kong's position as an international and regional aviation hub.

### **Advisory and Statutory Bodies**

The network of advisory and statutory bodies is a distinctive feature of the system of government. Its purpose is to tap professional expertise present in the community and to encourage public participation in government decision-making.

Through these bodies, a wide cross-section of the community and relevant organisations can participate in the initial stage of policy-making and public service planning.

The advisory bodies' areas of activities are wide-ranging. Some, such as the Telecommunications Numbering Advisory Committee, deal with the interests of a particular industry. Others, such as the Transport Advisory Committee, advise on a particular area of government policy, while the District Councils deal with district affairs. Statutory bodies, such as the Hospital Authority, have legal powers and responsibilities to perform specific functions in accordance with the relevant legislations.

About 5 000 members of the public are serving on some 450 advisory and statutory bodies. They include people who are representatives of the relevant professions or the community, and appointees by the Government mainly because of their expertise, knowledge or experience, and contribution to the work of the bodies concerned.

The Government oversees the running of the advisory and statutory bodies to make sure they operate efficiently and that they meet the needs of the community. The practice of bringing in a reasonable number of new members is maintained to ensure a continuing inflow of fresh and different ideas to these bodies. The Government will continue to broaden community participation in advisory and statutory bodies and make their operations more visible.

### **Structure of the Administration**

The Chief Executive is the head of the Government of the HKSAR. The Chief Secretary for Administration, the Financial Secretary or the Secretary for Justice deputises for the Chief Executive during his temporary absence.

There are currently 12 bureaux, each headed by a Director of Bureau. Together, they form the Government Secretariat. There are 57 departments whose heads are responsible to the Directors of Bureaux for the direction of their departments and the efficient implementation of approved policies. The Audit Commission, the Independent Commission Against Corruption (ICAC) and the Office of The Ombudsman report directly to the Chief Executive.

The Chief Secretary for Administration, the Financial Secretary, the Secretary for Justice and the 12 Directors of Bureaux (Bureau Secretaries responsible for different policy portfolios) are politically appointed Principal Officials. They are appointed for a five-year term which will not exceed the term of the Chief Executive who nominates them for appointment. They are all Members of the Executive Council (equivalent of Cabinet in Hong Kong). These Principal Officials are accountable for matters falling within their respective portfolios. The Director of the Chief Executive's Office is also a politically appointed official, with the same terms of employment as those of a Director of Bureau.

Two additional layers of politically appointed officials — Under Secretaries and Political Assistants — were created in 2008 to provide the Principal Officials with stronger support in carrying out political work. As at December 31, 2011, the political tier comprises 40 positions, of which 32 are filled.

#### *Role of the Chief Secretary for Administration*

The Chief Secretary for Administration is the leading Principal Official in the HKSAR Government. He is a member of the Executive Council and deputises for the Chief Executive when the latter is not able to discharge his duties for a short period.

The Chief Secretary for Administration supports the Chief Executive in administering Hong Kong and advises him on policy matters. He plays an important role in policy co-ordination, which is particularly important in areas that cut across



policy bureaux. The Chief Secretary for Administration is responsible for overseeing specific priority areas of the Chief Executive's policy agenda, forging a closer and more effective working relationship between the Administration and the Legislative Council, and drawing up the Government's legislative programme. He also exercises statutory functions vested in him by law, such as those concerning the handling of appeals and certain public bodies.

### *Role of the Financial Secretary*

The Financial Secretary's primary responsibility is to assist the Chief Executive in overseeing policy formulation and implementation of financial, monetary, economic, trade and development matters. He exercises control over the Exchange Fund with the assistance of the Monetary Authority. He is a member of the Executive Council.

The Financial Secretary is also in charge of the Government Budget. He is responsible under the Public Finance Ordinance for laying before the Legislative Council each year the Government's estimates of revenue and expenditure. In his annual budget speech, he outlines the Government's vision and policies for sustainable economic development, and he presents budgetary proposals and moves the Appropriation Bill, which gives legal effect to the annual expenditure proposals contained in the Budget.

### *Central Policy Unit*

The Central Policy Unit provides advice on policy issues to meet the special requirements of the Chief Executive, the Chief Secretary for Administration and the Financial Secretary and submits reports directly to them.

The unit consults widely with business and professional circles, political organisations and concerned groups, and the academic community. It undertakes in-depth examinations of complex policy issues, analyses options, conducts soundings of community feedback and recommends solutions for the Government's internal consideration. It also carries out research studies on various issues in Hong Kong, as well as the Mainland and on regional co-operation. The unit is also responsible for co-ordinating the annual Policy Address exercise.

In addition, the unit provides secretariat support to the Commission on Strategic Development, which advises the Chief Executive on Hong Kong's long-term development needs and goals with particular reference to the direction and strategy of social, economic and political developments for Hong Kong. The Chief Executive chairs the commission with 69 non-official members drawn from many fields, including the academia, the business sector, the professional sector, the media, think tanks, the welfare sector and political parties. The commission also comprises four official members: the Chief Secretary for Administration, the Financial Secretary, the Director of the Chief Executive's Office and the Head of the Central Policy Unit.

### *Efficiency Unit*

The Efficiency Unit reports to the Chief Secretary for Administration, supporting the Government's commitment to improving services to the community and ensuring openness and accountability. The unit provides internal management consultancy

services for the public sector to identify, secure support for and implement public sector reform measures.

The unit operates the 1823 Call Centre, which provides a round-the-clock one-stop service to answer enquiries for 21 departments and receive complaints about any area of government services. During the year, the unit revamped the 1823 Online website. The aim was to present public information in a more easily accessible and understandable format and make it easier for citizens to submit information or pictures so that departments can identify and act on issues of public concern more quickly. The unit also operates a 'Youth Portal' ([www.youth.gov.hk](http://www.youth.gov.hk)) which provides a multi-media platform for young people to access government information and services easily. During the year, the portal extended its presence in popular social media platforms and launched mobile applications for users to access content when and where they want.

### **The Civil Service**

The civil service is responsible to the Chief Executive and supports the Government in formulating, explaining and implementing policies, conducting administrative affairs, delivering public services, and undertaking law enforcement and regulatory functions.

The civil service is a permanent, honest, meritocratic, professional and politically neutral institution. It employs about 4 per cent of Hong Kong's labour force. It provides staff for all government departments and other units of the Administration. As at December 31, 2011, the total strength of the civil service was 158 500 (excluding about 1 500 judges and judicial officers and Independent Commission Against Corruption officers).

Overall policy responsibility for the management of the civil service lies with the Civil Service Bureau of the Government Secretariat. The bureau's remit includes making policies on appointments, pay and conditions of service, staff management, manpower planning, training and development, conduct and discipline and use of official languages in the civil service. The bureau is also the focal point for consultation with major staff associations. It takes care of the management of Administrative Officer, Executive Officer, Official Languages Officer, Training Officer, Simultaneous Interpreter, Calligraphist as well as the clerical and secretarial grades staff. Management of the civil service is governed mainly by three important instruments: the Public Service (Administration) Order, the Public Service (Disciplinary) Regulation and the Civil Service Regulations, all made with the authority of the Chief Executive.

The Public Service Commission is an independent statutory body set up under the Public Service Commission Ordinance. Its fundamental role is to advise the Chief Executive on appointments, promotions and discipline in the civil service. The Government is also advised on civil service pay and conditions of service by three independent bodies. These independent bodies are the Standing Committee on Directorate Salaries and Conditions of Service (directorate officers excluding judges and judicial officers and the disciplined services, but including the heads of the

disciplined services); the Standing Committee on Disciplined Services Salaries and Conditions of Service (the disciplined services except the heads of disciplined services); and the Standing Commission on Civil Service Salaries and Conditions of Service (all other civil servants).

In accordance with the Basic Law, new recruits to the civil service on or after July 1, 1997 should normally be permanent residents of the HKSAR, save for those who fall within the exceptions provided in Articles 99 and 101 of the Basic Law.

Subject to the above policy, appointment to the civil service is based on open and fair competition which aims to recruit the best person for the job. Promotion is performance-based and not a reward for long service. As the largest employer in Hong Kong, the Government takes the lead in employing people with disabilities to help them integrate into the community and to ensure that they are given equal opportunity in recruitment to the civil service.

The Government monitors closely the turnover in the civil service for manpower planning purposes to keep manpower at a level commensurate with service demand. Overall wastage in the civil service was about 3.5 per cent in 2010-11. Given the importance of continuity at the management level, the Government has a well-established staff planning mechanism to review the succession planning for senior staff, identify and groom officers with potential for advancement to senior management and develop a pool of talent for senior positions.

The Government values regular communication and consultation with staff. There are four consultative councils at the central level: the Senior Civil Service Council, the Model Scale 1 Staff Consultative Council, the Disciplined Services Consultative Council and the Police Force Council. More than 80 consultative committees operate at the departmental level. A Civil Service Newsletter is published regularly to provide an added link with serving and retired civil servants.

To ensure that Hong Kong continues to maintain a world-class civil service which keeps pace with changes in society, the Government introduced a number of reforms during the past 10 years. These reforms cover the following five main areas:

### *1. Maintaining a Lean and Efficient Civil Service*

To help reduce the Government's operating expenditure, the civil service establishment has been downsized from its peak in early 2000 by about 18.7 per cent to about 161 000 at the end of March 2007. In accordance with the 'small government' principle, the Government continues to keep a watchful eye over the size of the civil service. New posts are only created when the need is fully justified and other means of providing services are not feasible. On the other hand, due consideration is given to the need for additional manpower resources for delivering new and improved services. Since 2007-08, the civil service establishment has increased by about 1 per cent annually. The growth forecast for the civil service in 2011-12 is about 1 per cent.

## *2. Reviewing Civil Service Pay and Benefits*

The policy for civil service pay is to offer sufficient remuneration to attract, retain, and motivate staff of suitable calibre to provide the public with an effective, efficient and high quality service. In order that civil service pay can be regarded as fair and reasonable by both civil servants who provide the service and the public who foot the bill, the Government adopts the principle that civil service pay should be broadly comparable with private sector pay.

Broad pay comparisons are achieved through periodic surveys. Under the Improved Civil Service Pay Adjustment Mechanism, the Government conducts a Pay Level Survey (PLS) every six years; a Starting Salaries Survey (SSS) every three years; and a Pay Trend Survey every year. As the last PLS and SSS were conducted in 2006 and 2009 respectively, the next PLS and SSS are both due to be conducted in 2012. With the agreement of the staff sides and in line with the practice of the 2009 SSS, the Administration invited the Standing Commission on Civil Service Salaries and Conditions of Service in December 2011 to conduct the 2012 PLS and the 2012 SSS and to advise on how the survey findings should be applied to the civil service.

In addition to salaries, civil servants are eligible for fringe benefits depending on their terms of appointment, rank, salary point, length of service, and other eligibility criteria. The Government has been taking steps over the years to modify civil servants' fringe benefits in line with present day conditions.

## *3. Improving the Entry and Exit System*

The 'New Entry System' for civil service recruits introduced on June 1, 2000 and modified on July 1, 2010 gives the Government greater flexibility in making appointments, while the new retirement benefits system, called the Civil Service Provident Fund Scheme, provides retirement benefits for officers appointed on new entry terms.

A 'Management-initiated Retirement Scheme' is in place to allow the Government, for the purpose of organisational improvement, to initiate the early retirement of directorate officers.

## *4. Providing Diversified Training*

The Civil Service Training and Development Institute (CSTDI), under the Civil Service Bureau, formulates training policies and gives support to bureaux/departments in training and development matters. The institute focuses on four core service areas: senior civil servants' development, national studies programmes, human resource management consultancy service and promotion of a continuous learning culture in the civil service.

Special programmes are offered to senior civil servants to help them develop as leaders. Programmes for attachment to, and exchange with, overseas organisations as well as municipal and provincial governments in Beijing, Shanghai, Hangzhou and Guangdong, have also been arranged for civil servants to gain wider exposure. The CSTDI launched an enhanced training plan for national studies in 2011 to make it an integral part of training undertaken by civil servants at various ranks.

To give civil servants a fuller understanding of national affairs, the institute arranges national studies programmes for them at the Chinese Academy of Governance, Foreign Affairs University, Tsinghua University, Peking University and Sun Yat-sen University. Seminars on national affairs and the Basic Law are held in Hong Kong separately for civil servants at different levels.

The institute also advises bureaux and departments on how to improve staff performance, develop competency profiles, enhance management capabilities and prepare officers for succession.

The training resources available in the e-learning portal, Cyber Learning Centre (CLC) Plus, are enriched and updated continually to promote continuous learning among civil servants.

### *5. Reinforcing Performance and Good Conduct*

Staff are given commendation letters and other awards for their good work and dedication to duty. A Secretary for the Civil Service's Commendation Award Scheme commends civil servants for their consistently outstanding performance. A Civil Service Outstanding Service Award Scheme recognises the efforts and achievements of bureaux and departments in their pursuit of service excellence and is an integral part of the government's effort to provide a citizen-centric service to the public. On the other hand, civil servants are liable to disciplinary action if they misconduct themselves. The Secretariat on Civil Service Discipline is the central body for processing disciplinary cases. It also reviews regularly the procedures for handling disciplinary matters to take present day needs into account.

The Civil Service Bureau and the Independent Commission Against Corruption jointly run an ethical leadership programme to instil a culture of probity in the civil service. Each bureau and department is required to appoint a senior directorate officer to co-ordinate effort to attain that goal.

### **Official Languages**

Chinese and English are Hong Kong's official languages. It is Government policy to have a civil service that is proficient in written Chinese and English and conversant in Cantonese, Putonghua and spoken English. While important Government documents are written in both official languages, correspondence with individual members of the public is always done in the language appropriate to the recipient.

The Civil Service Bureau's Official Languages Division oversees the Government's language policy and provides bureaux and departments with a wide range of language support services. Besides rendering translation, interpretation, drafting and editing services, the division operates telephone hotlines for language use, compiles reference materials such as guides to official writing and glossaries of terms commonly used by the Government, and organises language-related activities like thematic talks and competitions. Furthermore, a quarterly publication on language and culture, entitled *Word Power*, is produced for service-wide distribution. Some of the publications and reference materials produced by the division are available on the Civil Service Bureau website, [www.csb.gov.hk](http://www.csb.gov.hk).

## **Government Records Service**

The Government Records Service (GRS) oversees the overall management of government records and provides a range of records and archival management services.

The GRS formulates records management policies, guidelines and procedures, develops records management systems and oversees their implementation. It gives guidance and provides training to bureaux and departments on best practices in records management. It operates two records centres for storage of inactive government records and an ISO 9001:2008 certified microfilm centre providing microfilming services for bureaux and departments.

With the growing need for proper management of government electronic records, the GRS will develop further an electronic recordkeeping system, following the completion of a feasibility study, for managing multi-media records. It provides records management support and assistance to bureaux and departments to develop or adopt an electronic recordkeeping system to drive electronic records management in the Government.

The GRS appraises, acquires, preserves and provides access to government records of enduring value. Through its public programme and reference service, it encourages understanding, use and protection of Hong Kong's documentary heritage. Its Central Preservation Library for Government Publications contains a wealth of government publications for research and study of Hong Kong. Members of the public can visit the purpose-built archival facilities in the Hong Kong Public Records Building in Kwun Tong or use its online service at [www.grs.gov.hk](http://www.grs.gov.hk).

## **Office of The Ombudsman**

The Office of The Ombudsman is an independent statutory authority, established in 1989 under The Ombudsman Ordinance, to redress grievances arising from maladministration in the public sector through independent and impartial investigations to improve the standard of public administration.

In December 2001, the office severed its links with the Administration and has since become a corporation sole. It has set up its own administrative system and now employs contract staff on terms and conditions determined by The Ombudsman.

Directly responsible to the Chief Executive, The Ombudsman serves as the community's monitor on government departments and public bodies specified in the schedule to the ordinance to ensure that:

- bureaucratic constraints do not interfere with administrative fairness;
- public authorities are readily accessible to the public;
- abuse of power is prevented;
- wrongs are righted;

- facts are pointed out when public officers are unjustly accused;
- human rights are protected; and
- the public sector continues to improve its quality, transparency and efficiency.

Two exceptions to the monitoring system are the Hong Kong Police Force and the Independent Commission Against Corruption, both of which have their own separate bodies for dealing with public complaints. The 23 major public organisations in the schedule are: the Airport Authority, Auxiliary Medical Service, Civil Aid Service, Consumer Council, Employees Retraining Board, Equal Opportunities Commission, Estate Agents Authority, Financial Reporting Council, Hong Kong Arts Development Council, Hong Kong Examinations and Assessment Authority, Hong Kong Housing Authority, Hong Kong Housing Society, Hong Kong Monetary Authority, Hong Kong Sports Institute Limited, Hospital Authority, Kowloon-Canton Railway Corporation, Legislative Council Secretariat, Mandatory Provident Fund Schemes Authority, Office of the Privacy Commissioner for Personal Data, Securities and Futures Commission, Urban Renewal Authority, Vocational Training Council and West Kowloon Cultural District Authority.

Besides investigating complaints, The Ombudsman may initiate direct investigations of his own volition into matters of public interest and widespread concern, and publish the reports. This proactive and preventive approach aims at addressing problems affecting a broad spectrum of the community. The direct investigations are particularly useful in redressing administrative flaws of a systemic nature and addressing fundamental problems or underlying causes for complaint.

Since 1994, when The Ombudsman was empowered to undertake direct investigations, 82 such investigations have been completed — six of them in the reporting year 2010-11. These six investigations concerned:

- Fire safety regulatory measures;
- Allocation and monitoring of government land;
- Driving-offence points system;
- Management of non-emergency ambulance transfer service by the Hospital Authority;
- Transport Department actions for safe operation of public light buses; and
- Enforcement against unauthorised building works in the New Territories exempted houses.

The reports of all direct investigations have been published and are available for public scrutiny at the office's Resource Centre.

The Ombudsman Ordinance also empowers The Ombudsman to investigate complaints of non-compliance with the Code on Access to Information against government departments, including the Hong Kong Police Force and the

Independent Commission Against Corruption. The Ombudsman is also empowered to act as an independent review body in respect of an alleged breach of the code.

The office received 12 227 enquiries and 5 339 complaints in the reporting year 2010-11, compared with 13 789 enquiries and 4 803 complaints in the reporting year 2009-10. The areas attracting a substantial number of complaints were related to error, wrong advice or decision, delay, negligence, omission, ineffective control and lack of response to complaint.

Although The Ombudsman has no authority to enforce his recommendations, 88.5 per cent of the recommendations made have been accepted by the organisations concerned.

### **Office of the Director of Audit**

The Audit Commission is established under the Basic Law, which provides that it shall function independently and be accountable to the Chief Executive of the HKSAR. The Audit Commission is one of Hong Kong's oldest departments; the first Auditor-General was appointed in 1844.

The Audit Ordinance, enacted in 1971, provides for the audit of the Government's accounts by the Director of Audit and for the submission of his report to the President of the Legislative Council. The director also audits the accounts of the Exchange Fund, the Hong Kong Housing Authority, five trading funds and more than 60 statutory and non-statutory funds and other public bodies. In addition, the director reviews the financial aspects of the operations of the multifarious government-subsidised organisations.

The Director of Audit carries out two types of audit: regularity audits and value-for-money audits. Regularity audits are intended to provide an overall assurance of the general accuracy and propriety of the financial and accounting transactions of the Government and other audited bodies. The Audit Ordinance gives the director statutory authority to conduct regularity audits.

Value-for-money audits are intended to provide independent information, advice and assurance about the economy, efficiency and effectiveness with which any bureau of the Government Secretariat, department, agency, other public body, public office or audited organisation has discharged its functions. Except for some public organisations where the Director of Audit has obtained statutory authority to conduct value-for-money audits, these audits are carried out according to a set of guidelines tabled in the Provisional Legislative Council by the Chairman of the Public Accounts Committee in 1998.

After the Director of Audit's report has been submitted to the President of the Legislative Council and laid before the council, it is considered by the Public Accounts Committee.

In 2011, the director submitted three reports: one on the audit certification of the Government's accounts for the preceding financial year and two on the results



of value-for-money audits (Report No. 56 of March 2011 and Report No. 57 of October 2011).

Report No. 56 contained eight chapters, two of which were selected by the Public Accounts Committee for public hearing:

- Hong Kong 2009 East Asian Games; and
- Hong Kong Housing Authority: Management of commercial properties.

Report No. 57 contained 12 chapters, three of which were selected by the Public Accounts Committee for public hearing:

- Food labelling;
- Nutrition labelling of infant and special dietary foods; and
- Water losses from unauthorised consumption and inaccurate metering.

The value-for-money audit reports attracted considerable public interest. The audit recommendations were accepted by the audited organisations.

The Director of Audit's reports on the accounts of other public bodies are submitted to the relevant authority in accordance with the legislation governing the operation of these bodies.

At the invitation of the Public Accounts Committee, the Director of Audit accompanied the committee's delegation on a duty visit to London in March 2011. The purpose of the visit was for members of the Public Accounts Committee to study and obtain first-hand information on the mechanism, operation and working practices of the Committee of Public Accounts of the House of Commons of the UK Parliament.

### *Websites*

Administration Wing, Chief Secretary for Administration's Office:

[www.admwing.gov.hk](http://www.admwing.gov.hk)

Civil Service Bureau: [www.csb.gov.hk](http://www.csb.gov.hk)

Constitutional and Mainland Affairs Bureau: [www.cmab.gov.hk](http://www.cmab.gov.hk)

Home Affairs Bureau: [www.hab.gov.hk](http://www.hab.gov.hk)

Legislative Council: [www.legco.gov.hk](http://www.legco.gov.hk)

Office of The Ombudsman: [www.ombudsman.hk](http://www.ombudsman.hk)

Audit Commission: [www.aud.gov.hk](http://www.aud.gov.hk)