

CHAPTER 5

THE PROVISIONAL RECOMMENDATIONS : GENERAL DECISIONS WITH REASONS

5.1 At the meetings of the Commission held for the delineation of the PDCAs, various matters were discussed and considered, and decisions were made in arriving at the Commission's provisional recommendations.

Section 1 : The Statutory Criteria

5.2 The main criteria prescribed in the Legislative Council Ordinance and the EAC Ordinance in respect of the delineation of the LegCo GCs are as follows:

- (a) the Commission must delineate 5 LCCAs;
- (b) each LCCA is to be composed of whole and contiguous DBCAs;
- (c) the Commission shall have regard to the existing boundaries of Districts and of the Urban Council Area and the Regional Council Area;
- (d) the number of members to be returned to the LegCo for each of the 5 LCCAs delineated is to be not less than 3 nor greater than 5;
- (e) the population in an LCCA shall be as near as is practicable to the resulting number when the population quota is multiplied by the number of members to be returned to LegCo by that LCCA, and where it is not practicable to comply with this requirement, the population in that LCCA shall not exceed or fall short of the applicable resulting number by more than 15% thereof;

- (f) the Commission shall have regard to the section 20(3) considerations which are community identities, the preservation of local ties and physical features such as size, shape, accessibility and development of the relevant area; and
- (g) the Commission may depart from the strict application of (e) above only where it appears that one or more of the section 20(3) considerations renders a departure necessary or desirable.

Section 2 : The Forming Blocks

5.3 Each LCCA to be recommended by the Commission is to consist of whole DBCAs which are contiguous to each other. It may be remembered that there are 346 DBCAs in the Schedule to the order entitled “Declaration of Constituencies (District) Order 1994” and published in the Gazette as L.N. 93 of 1994 on 18 February 1994. The Commission’s task was to group appropriate DBCAs to form an LCCA.

Section 3 : The Population Criterion and Related Matters

5.4 It is clear from the language of section 20 of the Ordinance that the most important criterion that the Commission is to comply with is the population requirement (see paragraph 5.10 below for the reasons).

5.5 The residential population. The population forecast figures for 1998 provided by the Ad Hoc Subgroup are those in respect of the residential population of Hong Kong as at the end of March 1998 and its geographical distribution within each of the DBCAs in the whole of Hong Kong. The population coverage of the forecasts includes all residents present in Hong

Kong and residents who are temporarily away from Hong Kong to China and Macau on the forecast reference date, but excludes armed forces, transients in hotels and hostels or on board vessels and Vietnamese migrants. The working population and the visiting population who are on the move were not taken into account by the Ad Hoc Subgroup.

5.6 The reference date. In respect of the LegCo general election to be held in May 1998, the reference date of the population forecasts provided by the Ad Hoc Subgroup is the end of March 1998. This reference date is less than two months away from the proposed election day in May 1998, and is in the opinion of the Commission close enough as to be proper and reasonable. The population forecasts are adopted by the Commission as its own estimate regarding the population of Hong Kong and its geographical distribution within each of the DBCAs. The population quota as well as the resulting number in respect of each LCCA is founded on such estimate.

5.7 Adherence to the resulting number. Owing to the significance placed by the Ordinance on the population quota and the resulting number and the provision that the Commission shall only depart from the 15% range of the resulting number where it is necessary or desirable when having regard to the section 20(3) considerations, the Commission decided that save where one or more of such considerations made it impracticable, the Commission should adhere to the resulting number as far as possible in the demarcation of LCCAs. This was in fact achieved.

5.8 The population. According to the figures supplied by the Ad Hoc Subgroup to the Commission, the **territorial population** (excluding transients) of Hong Kong at the **end of March 1998** is **6,526,700**, comprising

1,360,700 in Hong Kong Island, 2,072,200 in Kowloon and 3,093,800 in the New Territories. The population of each of the 18 Districts comprising the sum total of all the populations in the DBCAs in them is set out in Table 3 of Appendix I. The Commission saw no reason to differ from the population forecast figures submitted by the Ad Hoc Subgroup and adopted such as its own estimate of the population of Hong Kong and in each of the DBCAs.

5.9 The population quota. The population quota is the basis by which the resulting number can be reached. By dividing the territorial population of 6,526,700 by the total number of members to be returned by all the LCCAs in the 1998 LegCo general election, namely, 20, the **population quota of 326,335** is obtained.

Section 4 : Boundaries of Districts, the UC Area and the RC Area

5.10 The strict adherence to the population criterion may not cause much difficulty in an attempt to maintain the integrity of the boundaries of the Urban Council (“UC”) Area and the Regional Council (“RC”) Area, but may very well conflict with maintaining the integrity of the boundaries of Districts. The reason is that the whole territory of Hong Kong is either encompassed in the UC Area or the RC Area, and the carving of 5 LCCAs in two such Areas may be workable without affecting to a large extent the adherence to the population criterion. However, maintaining the boundaries of Districts is a different matter. There are 18 Districts, and delineating 5 LCCAs amongst the 18 Districts while trying to keep the integrity of each of the Districts would be much more difficult when the population criterion is to be complied with. The Commission has noted the difference in the wording used in the Ordinance in regard to the population criterion [s 20(1)] on the one hand and the

maintenance of the integrity of boundaries of Districts and the UC and RC Areas on the other [s 20(4)]. The Commission shall **ensure** that the population criterion being applied whereas it shall **have regard** to the boundaries. It is therefore obvious to the Commission that while due regard has to be paid to the boundaries, the preponderance is on ensuring that population criterion is to be complied with.

Section 5 : Community Identities, Local Ties and Physical Features

5.11 The Commission in its task has also to have regard to the considerations under section 20(3) of the Ordinance, namely, community identities, the preservation of local ties, and physical features such as size, shape, accessibility and development of the relevant area or part thereof. These considerations would also operate in conflict with the population criterion. The wording of the subsection that the Commission shall have regard to such considerations again has shown very clearly to the Commission that greater significance is to be placed on the population criterion. Be that as it may, the Commission anticipated that combining DBCAs in 2 different Districts to form an LCCA would meet with opposition from the residents of both of the Districts because they would consider themselves residents of one District as distinct from the neighbouring District. It was also envisaged that the politicians of the Districts concerned would raise severe objections, for such a new LCCA which differed from the previous or existing constituency might adversely affect their political influence.

5.12 Matters relating to maintaining political influence or advantage are not only irrelevant considerations for the Commission, but the Commission should avoid even giving any semblance of favouring any one politician or

political party as against others.

5.13 The Commission considered that the section 20(3) considerations bore less importance in the delineation of LCCAs because of the large size of such constituencies. There are only to be 5 LCCAs in the whole of the territory, and the smallest LCCA to be demarcated would return no less than 3 members to the LegCo. By simple calculation, the population in an area encompassed by such a small LCCA with the least allowable members to be returned to the LegCo would be about 979,000. It is difficult to envisage that there can be significant or close community identities and local ties among such a large number of people. The mixing of different communities is almost impossible to avoid. Moreover, an LCCA would cover a large area. It would not be reasonable to expect that such a constituency to be homogeneous, from the point of community identities or housing types, because of its area coverage.

5.14 Similarly, the area of a smallest LCCA, in terms of the number of LegCo members to be returned, would involve a sizable area of land or stretch of water, which would render physical features of an LCCA less distinct.

5.15 Notwithstanding the matters aforesaid, the Commission used its utmost endeavours to pay due regard to the section 20(3) considerations whenever it was possible.

Section 6 : General Decisions

5.16 At the commencement of the demarcation exercise, the Commission adopted certain working principles, to be applied generally in

delineating LCCAs. They are set out in the following paragraphs.

5.17 The primary consideration in delineating LCCAs should be the population criterion. At the same time, if it is at all possible to maintain the integrity the boundaries of the UC Area and the RC Area and those of the Districts, the Commission should do so. The Commission should give precedence to respecting the boundaries of the UC Area and the RC Area before trying to maintain the integrity of the boundaries of Districts, because the two Areas are larger than the area covered by each of the 18 Districts.

5.18 The maintenance of the boundaries, if possible, is also to some extent tantamount to paying regard to the section 20(3) considerations, because some members of the public must have identified themselves with the Districts, the UC Area or the RC Area by way of community identities and local ties. However, when the adherence to the population criterion does not enable a full compliance with the boundary requirement, the least disturbance to the boundaries would be attempted.

5.19 The range of allowable departure from the strict application of the population criterion is 15% of the resulting number, but the Commission should as far as possible arrive at a recommendation where the population of each of the 5 LCCAs should be as close to the resulting number as possible. Where there are two or more ways of delineating LCCAs, the Commission should select the method which would result in the least departure from the population criterion for any of the LCCAs. Any exception, however, should only be made for the purpose of paying due regard to the section 20(3) considerations.

5.20 While respecting the UC Area and RC Area boundaries, a number of the 18 Districts are to be grouped together to form an LCCA. Where it is necessary to split Districts, the Commission should do so with the least number of Districts being affected.

5.21 Where it is necessary to join DBCAs in more than one District to form an LCCA, only DBCAs in two and not more than two Districts will be merged. This is to prevent too much dilution of community identities or disturbance to local ties.

5.22 Hong Kong Island, Kowloon and the New Territories are to be treated separately, for the reason that these three areas have traditionally been broadly viewed by the people of Hong Kong as distinct from one another. Each of the three areas is to get the number of seats to which it is entitled by using the quotient reached from dividing the area's population by the population quota. The first step is to allocate seats in accordance with a whole number of the quotient. Where the quotients contain fractions, the largest of the value of the fractions will get the remaining seat. As a result of this exercise, Hong Kong Island is to be allocated 4 seats, Kowloon 6 seats and the New Territories 10 seats.

Section 7 : Names of Legislative Council Constituencies

5.23 Since the PDCAs were delineated within each of the areas of Hong Kong Island, Kowloon and the New Territories, the Commission felt that their names should be linked to the area in which they are situated and distinguished by directional references, if necessary. There would therefore be little dispute as to which one of the Districts was favoured by way of name

in the case where DBCAs in two or more Districts were joined to form one PDCA. Thus, the 5 PDCAs were named in the Commission's provisional recommendations as Hong Kong Island, Kowloon East, Kowloon West, New Territories East and New Territories West.

Section 8 : Code Reference of Legislative Council Constituencies

5.24 The Commission considered it desirable to distinguish LCCAs by code reference. The Commission adopted a code and numbering system for the LCCAs by prefixing them with "LC" indicating LegCo and following by a number, starting from "1" and ending at "5". The numbering was arranged from south to north and left to right. To distinguish the provisionally determined LegCo constituencies from those eventually recommended, the Commission refers to the former as "PDCAs" and the latter as "LCCAs".

Section 9 : The Provisional Recommendations

5.25 It was based on all the above decisions and reasons that the Commission provisionally determined the delineation of LegCo GCs. The population and component DBCAs of each of the PDCAs are set out in Appendix V. The eventual recommendations of the Commission, made after having regard to the public representations referred to in Chapter 6, are dealt with in that chapter and contained in Volume 2 of this report.