

CHAPTER 4

CONSIDERATION OF REPRESENTATIONS

Section 1 : Deliberations on the Representations

4.1 As soon as the public consultation period ended, the EAC went through all the written and oral representations on the provisional recommendations (including the views expressed by LegCo Members at the meeting of the LegCo Panel on Constitutional Affairs held on 16 July 2007) and considered whether they should be accepted. The Commission also considered a representation received before the consultation period.

4.2 The Commission examined each of the representations received in detail, considered the viability of the proposals suggested and the reasons put forward. General views provided in the representations were also noted. A summary of all written and oral representations and the EAC's views on each representation is at **Appendix V**. The EAC noted that most representations concerned about the boundaries and number of seats of Kowloon West ("KW"), Kowloon East ("KE") and the New Territories West ("NTW") GCs. In considering the representations, the Commission has noticed the following issues.

(a) Adherence to Statutory Requirements

4.3 Among the representations received, some of them offered counter-proposals which would affect the number of GCs to be delineated (e.g. to combine KW and KE GCs) or would cause the number of seats in a GC to fall outside the range allowed (i.e. from four to eight) in the statutory provisions (e.g. to increase the maximum number of seats in a GC from eight to nine). As the LCO stipulates that there are to be **5 GCs with 4 to 8 Members for each GC** (see paragraph 2.1 in Chapter 2), such proposals cannot be accepted (items 3, 10, 15, 20, 22 and 23 of **Appendix V**).

(b) Anticipated Changes in Population

4.4 Some representations suggested that the future population trend in the KW and KE constituencies would justify maintaining the current number of seats for the 2 GCs (put up by items 1, 2 and 18 of **Appendix V**). For reason of fairness and consistency, the EAC considers it essential to adhere to the population forecasts projected as at 30 June 2008 in delineating the five GCs in this demarcation exercise. In line with the established practice, the EAC considers it not appropriate to take future population trend into consideration. Future changes in population after the said cut-off date would be catered for in the next demarcation exercise, taking into account the latest development at that time.

(c) Maintaining the Status Quo

4.5 It is noted that a majority of the representations suggested to maintain the status quo for all 5 GCs, i.e. to maintain the existing boundaries so as to preserve community ties and avoid confusion, as well as to maintain the existing number of seats for KW (four seats) and KE (five seats). One of the justifications put forward in these representations was that if the number of seats in KE was reduced, there would be fewer LegCo Members who were familiar with the needs of KE residents for them to seek help, and this would hamper social stability in the community. They also argued that under the status quo, the projected population of KW and KE would still fall within $\pm 15\%$ of the relevant resulting number.

4.6 The EAC agrees that maintaining the existing boundaries for all GCs would comply with the statutory requirement that the EAC shall have regard to existing GC boundaries as provided in section 20(4) of the EACO, and would be in line with the EAC's working principle to use the existing GC boundaries as the basis of consideration in the current demarcation exercise. The EAC has also proposed to maintain the existing GC boundaries in its provisional recommendations.

4.7 As regards the suggestion of maintaining the existing number of seats for KW and KE, it cannot be accepted because the GC of KW has a larger projected population than KE. Although the difference is relatively

small, it would be unfair to KW if it is allocated fewer seats than KE. In addition, according to section 20(1)(a) of the EACO, the EAC shall ensure that the extent of each proposed GC is such that the population in that constituency is **as near as is practicable** to the **resulting number**. Under the proposal to maintain the status quo, the deviations from the resulting numbers for KW and KE would still fall within the $\pm 15\%$ statutory limit (+10.75% and -12.37% respectively). However, they would not be as close to the resulting numbers as compared with those under the provisional recommendations (-11.40% and +9.54%). **The status quo suggestion would contravene the statutory criterion in section 20(1)(a) of the EACO** which stipulates that the population in a GC should be as near as is practicable to the resulting number. The EAC would not be able to fully comply with the law if it accepts the suggestion to maintain the status quo.

(d) Fairness in Representation

4.8 A number of representations considered that the population difference between KE and KW constituencies was so small that it would be unfair to the residents in KE if KW was to be allocated one more seat than KE (see items 2, 4, 18 and 23 of **Appendix V**).

4.9 As mentioned before in paragraph 4.7, the EAC considers that if the GC boundaries are to remain unchanged, it would not be appropriate to maintain the current number of seats in KW and KE GCs. On the other

hand, with a view to achieving a better population distribution, the EAC has explored the options of allowing the KE constituency to take in a contiguous district from the New Territories East (“NTE”) or KW, as detailed in Section 7 of Chapter 2. The resultant population in these options, however, either would only yield a very marginal improvement in the range of deviation and could not justify redrawing the GC boundaries, or would cause the number of seats in one of the GCs to fall outside the permissible range of four to eight (options 3, 12 and 13 in **Appendices II and III**). Some representations proposed to adjust the boundary between KW and KE, so as to give a small part of a District to KE in order to increase the population of KE and thus justify maintaining the current number of seats. The EAC considers such proposals to be undesirable, and this would be further discussed in paragraph 4.14.

4.10 Some representations considered it unfair for NTW GC to be allocated 8 seats, as its population entitled 8.732 seats, and the figure should be rounded up to 9. They considered that NTW would be “under-represented” in this case (items 4, 15, 24, 25 and 26 of **Appendix V**). If NTW was to be allocated 8 seats, to bring the population of NTW closer to the resulting number for 8 seats, some suggested to move part of NTW to other GCs.

4.11 The Commission understands the concern expressed in these representations, but it should be emphasized that the deviation from the

resulting number for NTW is +9.15%, which is within the permissible deviation limit of $\pm 15\%$ under the law. Furthermore, under the existing statutory criteria stipulated in the LCO, the maximum number of seats to be allocated to a GC is 8, hence it will not be legally in order for EAC to allocate 9 seats to NTW. The EAC has also explored alternative options in delineating NTW (see paragraph 2.20 in Chapter 2 and **Appendices II and III**), but has found those options not desirable.

4.12 The EAC also considers that if the population of a GC is within the permissible range, to remove part of it to another GC (or to take in a part from another GC) with the sole aim of maintaining the existing number of seats for the GC may run a risk of placing undue emphasis on the number of seats and jeopardising the established community ties.

4.13 Some representations at the LegCo Panel on Constitutional Affairs raised issues relating to the list system of proportional representation. The Commission would like to stress that such issues are outside the jurisdiction of the Commission, and, as always, matters of maintaining political influence or advantage will not be considered by the EAC.

(e) Preservation of Community Identities and Local Ties

4.14 A number of representations proposed to re-delineate the boundaries of the KW and KE GCs by transferring some DCCAs of

Kowloon City District from the KW constituency to the KE constituency, so as to even out the population in these two GCs and to maintain the current number of seats for them (items 1, 3 and 23 of **Appendix V**). In considering such proposals, the EAC is under a statutory duty to pay due regard to the preservation of community identities and local ties, as well as the existing boundaries of the districts and GCs, as provided under section 20(3) and (4) of the EACO (see paragraph 2.3 in Chapter 2). Also, under the EAC's working principles (as set out in paragraph 2.5 in Chapter 2), splitting of Districts among two or more GCs is to be avoided. The EAC believes it would not be appropriate to accept those proposals to transfer some parts of a District from KW to KE, in order to preserve community identities and local ties, and to comply with its working principles.

4.15 A number of representations suggested moving part of NTW to other GCs to bring down the population of NTW. While some representations had not specified the relevant part to be removed, some proposed to move the Islands District to Hong Kong Island ("HKI") GC (items 4 and 24 in **Appendix V**). On paper, the suggestion seemed to generate smaller deviation figures, but it would result in the combination of a District to a GC with distinctly different local characteristics and community ties. Islands District is generally regarded as part of the New Territories, and according to EAC's working principles (see paragraph 2.5 in Chapter 2), should be treated differently from HKI. Moreover, the EAC had received supporting views to keep the boundary of NTW GC intact, so

as to preserve its community identity (items 11 and 19 of **Appendix V**). The residents of Islands District had also objected to moving out their district from NTW GC (item 19 in **Appendix V**). The EAC is thus of the view that the proposal to move Islands District to HKI should not be accepted.

Section 2 : The Recommendations

4.16 Section 20(5) of the EACO stipulates that the Commission shall only depart from the resulting number population requirement stipulated under section 20(1)(a)-(b) of the EACO where it is necessary or desirable when having regard to the considerations listed in section 20(3) of the EACO (i.e. community identities, preservation of local ties, physical features such as size, shape, accessibility and development of the relevant area or any part thereof). Save where one or more of such considerations made it impracticable or undesirable, the Commission should adhere to the resulting number as far as possible in the demarcation of GCs. This is in fact achieved under the provisional recommendations. As the EAC's provisional recommendations did not propose any change in the existing GC boundaries⁷, the community integrity of the 5 GCs would not be affected. The EAC's provisional recommendations have given due regard to the preservation of community identity and local ties.

⁷ save the minor rectification of district boundary between Sham Shui Po and Kwai Tsing Districts, and hence the boundary between Kowloon West and the New Territories West GCs.

4.17 The EAC has taken into account all the public representations (including supporting and objecting views, and counter-proposals offered) received concerning the delineation and number of seats for the 5 GCs. On balance, the EAC considers that the suggestions proposing change of boundaries or number of seats of GCs from the provisional recommendations cannot be accepted.

4.18 The Commission decides that it is not necessary or appropriate to make any alteration to the provisional recommendations, which now remain as its final recommendations. The final recommendations in respect of the 5 GCs, including the number of seats allocated to each GC, their names and reference code numbers, the component DCCAs and their population details as well as the maps showing the boundaries of the recommended GCs are contained in **Volume 2** of this report.