

Our Ref.:  
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26 January 2004  
*(Urgent by fax: 2509 9055)*

Mrs Percy Ma  
Clerk to Panel on Constitutional Affairs  
Legislative Council  
3/F, Citibank Tower  
3 Garden Road, Central  
Hong Kong

Dear Mrs Ma,

Thank you for your letter of 15 January 2004, requesting us to clarify the origin of the viewpoint that it may be necessary to invoke Article 159 of the Basic Law as stated in LC Paper No. CB(2)1003/03-04(01). Our response to the request is set out below.

As explained in our paper, in view of the statement made by Mr Ji Pengfei at the Third Session of the Seventh National People's Congress (NPC) on 28 March 1990, it is clear that the purpose of enacting Annex I and Annex II is to make it more amenable to amendment when necessary. Therefore, the understanding has always been that the amendment procedures in Annex I and II are adequate and self-contained, and that the amendment procedures in Article 159 of the Basic Law would not apply. The HKSAR Government is also aware that this is the general view held by the community.

On the other hand, we are also aware of another view held by individual members of the community. The view is that amendments to the selection or formation methods stipulated in the Annexes should be subject to the amendment procedures prescribed in Article 159 of the Basic Law. Examples include:

“當務之急……是根據《基本法》第一百五十九條，要求修訂《基本法》中的行政長官選舉法……” (excerpt from “中環穿梭” by 畢流香, Hong Kong Economic Times dated 11 July 2003)

“…… 必須依法落實《基本法》第四十五條及附件一、附件二。是否需要修改，…… 如確定需要修改，則修改權在全國人大(第一百五十九條)……” (excerpt from an article by 林淑明, Ta Kung Pao dated 10 Jan 2004)

The above articles can be found on the website of the newspapers concerned.

The above information is for the reference of Members of the Panel.

Yours sincerely,

( Raymond TAM )  
for Secretary for Constitutional Affairs