

## **Bills Committee on Shenzhen Bay Port Hong Kong Port Area Bill**

### **A case occurring across the boundary**

#### **Introduction**

At the Bills Committee meeting on 5 and 7 March 2007, Members asked how we may ascertain whether the Hong Kong Special Administrative Region or the Mainland would have jurisdiction over cases occurring across the boundary of the Hong Kong Port Area (HKPA). This paper attempts to analyse this issue by way of a hypothetical case study.

#### **The Hypothetical Case**

2. Where a person in possession of an illegal item (say, proceeds from criminal activities or dangerous drugs) falls from the bridge in the HKPA into the sea within the jurisdiction of the Mainland, will Hong Kong or the Mainland or both sides have jurisdiction over the case?

#### **Analysis**

3. If possession of the item is illegal under Hong Kong law but not Mainland law, and the person concerned has committed an offence under Hong Kong law, he is liable to prosecution in a Hong Kong court under Hong Kong law for an offence committed within the jurisdiction of Hong Kong.

4. If possession of the item is illegal under Mainland law but not Hong Kong law, and the person concerned has committed an offence under Mainland law, he is liable to prosecution in a Mainland court under Mainland law for an offence committed in the Mainland if he was still in possession of the illegal item after falling into the sea that is within the jurisdiction of the Mainland.

5. If possession of the item is illegal under both Hong Kong and Mainland laws, and the person concerned has committed an offence under both Hong Kong and Mainland laws, he is liable to prosecution in a Hong Kong court for an offence committed under Hong Kong law whilst he is in Hong Kong and to prosecution in a Mainland court for an offence committed under Mainland law whilst he is in the Mainland.

Security Bureau

21 March 2007