

Item (c)

To advise on the meaning of “Central Authorities”, a term referred to in the last of the three conditions that a subordinate organ has to meet in order to be within the Cap 1 definition of “State”

As provided for in the definition of “State” in Cap 1, the “Central Authorities” of the PRC refers to central authorities other than those already covered in the definition i.e. the President of the PRC and the Central People’s Government (CPG). The coverage of this term is confined to entities that exercise functions for which the CPG has responsibility under the Basic Law. It is appropriate to use a functional formula because the nature, name and functions of authorities can change from time to time, and only a functional test can cater for this. For any subordinate organ of the Central Authorities to fall within the definition of “State”, it has to satisfy the following three conditions -

- (i) it exercises executive functions of the CPG, or functions for which the CPG has responsibility under the Basic Law;
- (ii) it does not exercise commercial functions; and
- (iii) it is acting within the scope of the authority and functions delegated to it by the CPG or the relevant Central Authority