THE BASIC LAW OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION OF THE PEOPLE'S REPUBLIC OF CHINA

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Decree of the President of the People's Republic of China

No. 26

I hereby promulgate the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, including Annex I, Method for the Selection of the Chief Executive of the Hong Kong Special Administrative Region, Annex II, Method for the Formation of the Legislative Council of the Hong Kong Special Administrative Region and Its Voting Procedures, Annex III, National Laws to be Applied in the Hong Kong Special Administrative Region, and designs of the regional flag and regional emblem of the Hong Kong Special Administrative Region, which was adopted at the Third Session of the Seventh National People's Congress of the People's Republic of China on 4 April 1990 and shall be put into effect as of 1 July 1997.

(Signed)
Yang Shangkun
President of
the People's Republic of China

4 April 1990

THE BASIC LAW OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION OF THE PEOPLE'S REPUBLIC OF CHINA*

(Adopted at the Third Session of the Seventh National People's Congress on 4 April 1990
Promulgated by Order No. 26 of the President of the People's Republic of China on 4 April 1990
Effective as of 1 July 1997)

Note:

* Please also see—

a. Decision of the National People's Congress on the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (Adopted at the Third Session of the Seventh National People's Congress on 4 April 1990) (see **Instrument 9**); and

b. Decision of the Standing Committee of the National People's Congress on the English Text of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (Adopted on 28 June 1990) (see **Instrument 14**).

Preamble

Hong Kong has been part of the territory of China since ancient times; it was occupied by Britain after the Opium War in 1840. On 19 December 1984, the Chinese and British Governments signed the Joint Declaration on the Question of Hong Kong, affirming that the Government of the People's Republic of China will resume the exercise of sovereignty over Hong Kong with effect from 1 July 1997, thus fulfilling the long-cherished common aspiration of the Chinese people for the recovery of Hong Kong.

Upholding national unity and territorial integrity, maintaining the prosperity and stability of Hong Kong, and taking account of its history and realities, the People's Republic of China has decided that upon China's resumption of the exercise of sovereignty over Hong Kong, a Hong Kong Special Administrative Region will be established in accordance with the provisions of Article 31 of the Constitution of the People's Republic China, and that under the principle of "one country, two systems", the socialist system and policies will not be practised in Hong Kong. The basic policies of the People's Republic of China regarding Hong Kong have been elaborated by the Chinese Government in the Sino-British Joint Declaration.

In accordance with the Constitution of the People's Republic of China, the National People's Congress hereby enacts the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, prescribing the systems to be practised in the Hong Kong Special Administrative Region, in order to ensure the implementation of the basic policies of the People's Republic of China regarding Hong Kong.

Chapter I: General Principles

Article 1

The Hong Kong Special Administrative Region is an inalienable part of the People's Republic of China.

Article 2

The National People's Congress authorizes the Hong Kong Special Administrative Region to exercise a high degree of autonomy and enjoy executive, legislative and independent judicial power, including that of final adjudication, in accordance with the provisions of this Law.

Article 3

The executive authorities and legislature of the Hong Kong Special Administrative Region shall be composed of permanent residents of Hong Kong in accordance with the relevant provisions of this Law.

Article 4

The Hong Kong Special Administrative Region shall safeguard the rights and freedoms of the residents of the Hong Kong Special Administrative Region and of other persons in the Region in accordance with law.

Article 5

The socialist system and policies shall not be practised in the Hong Kong Special Administrative Region, and the previous capitalist system and way of life shall remain unchanged for 50 years.

Article 6

The Hong Kong Special Administrative Region shall protect the right of private ownership of property in accordance with law.

Article 7

The land and natural resources within the Hong Kong Special Administrative Region shall be State property. The Government of the Hong Kong Special Administrative Region shall be responsible for their management, use and development and for their lease or grant to individuals, legal persons or organizations for use or development. The revenues derived therefrom shall be exclusively at the disposal of the government of the Region.

Article 8

The laws previously in force in Hong Kong, that is, the common law, rules of equity, ordinances, subordinate legislation and customary law shall be maintained, except for any that contravene this Law, and subject to any amendment by the legislature of the Hong Kong Special Administrative Region.

Article 9

In addition to the Chinese language, English may also be used as an official language by the executive authorities, legislature and judiciary of the Hong Kong Special Administrative Region.

Article 10

Apart from displaying the national flag and national emblem of the People's Republic of China, the Hong Kong Special Administrative Region may also use a regional flag and regional emblem.

The regional flag of the Hong Kong Special Administrative Region is a red flag with a bauhinia highlighted by five star-tipped stamens.

The regional emblem of the Hong Kong Special Administrative Region is a bauhinia in the centre highlighted by five star-tipped stamens and encircled by the words "Hong Kong Special Administrative Region of the People's Republic of China" in Chinese and "HONG KONG" in English.

Article 11

In accordance with Article 31 of the Constitution of the People's Republic of China, the systems and policies practised in the Hong Kong Special Administrative Region, including the social and economic systems, the system for safeguarding the fundamental rights and freedoms of its residents, the executive, legislative and judicial systems, and the relevant policies, shall be based on the provisions of this Law.

No law enacted by the legislature of the Hong Kong Special Administrative Region shall contravene this Law.

Chapter II: Relationship between the Central Authorities and the Hong Kong Special Administrative Region

Article 12

The Hong Kong Special Administrative Region shall be a local administrative region of the People's Republic of China, which shall enjoy a high degree of autonomy and come directly under the Central People's Government.

Article 13

The Central People's Government shall be responsible for the foreign affairs relating to the Hong Kong Special Administrative Region.

The Ministry of Foreign Affairs of the People's Republic of China shall establish an office in Hong Kong to deal with foreign affairs.

The Central People's Government authorizes the Hong Kong Special Administrative Region to conduct relevant external affairs on its own in accordance with this Law.

Article 14

The Central People's Government shall be responsible for the defence of the Hong Kong Special Administrative Region.

The Government of the Hong Kong Special Administrative Region shall be responsible for the maintenance of public order in the Region.

Military forces stationed by the Central People's Government in the Hong Kong Special Administrative Region for defence shall not interfere in the local affairs of the Region. The Government of the Hong Kong Special Administrative Region may, when necessary, ask the Central People's Government for assistance from the garrison in the maintenance of public order and in disaster relief.

In addition to abiding by national laws, members of the garrison shall abide by the laws of the Hong Kong Special Administrative Region.

Expenditure for the garrison shall be borne by the Central People's Government.

Article 15

The Central People's Government shall appoint the Chief Executive and the principal officials of the executive authorities of the Hong Kong Special Administrative Region in accordance with the provisions of Chapter IV of this Law.

Article 16

The Hong Kong Special Administrative Region shall be vested with executive power. It shall, on its own, conduct the administrative affairs of the Region in accordance with the relevant provisions of this Law.

Article 17

The Hong Kong Special Administrative Region shall be vested with legislative power.

Laws enacted by the legislature of the Hong Kong Special Administrative Region must be reported to the Standing Committee of the National People's Congress for the record. The reporting for record shall not affect the entry into force of such laws.

If the Standing Committee of the National People's Congress, after consulting the Committee for the Basic Law of the Hong Kong Special Administrative Region under it, considers that any law enacted by the legislature of the Region is not in conformity with the provisions of this Law regarding affairs within the responsibility of the Central Authorities or regarding the relationship between the Central Authorities and the Region, the Standing Committee may return the law in question but shall not amend it. Any law returned by the Standing Committee of the National People's Congress shall immediately be invalidated. This invalidation shall not have retroactive effect, unless otherwise provided for in the laws of the Region.

Article 18

The laws in force in the Hong Kong Special Administrative Region shall be this Law, the laws previously in force in Hong Kong as provided for in Article 8 of this Law, and the laws enacted by the legislature of the Region.

National laws shall not be applied in the Hong Kong Special Administrative Region except for those listed in Annex III to this Law. The laws listed therein shall be applied locally by way of promulgation or legislation by the Region.

The Standing Committee of the National People's Congress may add to or delete from the list of laws in Annex III after consulting its Committee for the Basic Law of the Hong Kong Special Administrative Region and the government of the Region. Laws listed in Annex III to this Law shall be confined to those relating to defence and foreign affairs as well as other matters outside the limits of the autonomy of the Region as specified by this Law.

In the event that the Standing Committee of the National People's Congress decides to declare a state of war or, by reason of turmoil within the Hong Kong Special Administrative Region which endangers national unity or security and is beyond the control of the government of the Region, decides that the Region is in a state of emergency, the Central People's Government may issue an order applying the relevant national laws in the Region.

Article 19

The Hong Kong Special Administrative Region shall be vested with independent judicial power, including that of final adjudication.

The courts of the Hong Kong Special Administrative Region shall have jurisdiction over all cases in the Region, except that the restrictions on their jurisdiction imposed by the legal system and principles previously in force in Hong Kong shall be maintained.

The courts of the Hong Kong Special Administrative Region shall have no jurisdiction over acts of state such as defence and foreign affairs. The courts of the Region shall obtain a certificate from the Chief Executive on questions of fact concerning acts of state such as defence and foreign affairs whenever such questions arise in the adjudication of cases. This certificate shall be binding on the courts. Before issuing such a certificate, the Chief Executive shall obtain a certifying document from the Central People's Government.

Article 20

The Hong Kong Special Administrative Region may enjoy other powers granted to it by the National People's Congress, the Standing Committee of the National People's Congress or the Central People's Government.

Article 21

Chinese citizens who are residents of the Hong Kong Special Administrative Region shall be entitled to participate in the management of state affairs according to law.

In accordance with the assigned number of seats and the selection method specified by the National People's Congress, the Chinese citizens among the residents of the Hong Kong Special Administrative Region shall locally elect deputies of the Region to the National People's Congress to participate in the work of the highest organ of state power.

Article 22

No department of the Central People's Government and no province, autonomous region, or municipality directly under the Central Government may interfere in the affairs which the Hong Kong Special Administrative Region administers on its own in accordance with this Law.

If there is a need for departments of the Central Government, or for provinces, autonomous regions, or municipalities directly under the Central Government to set up offices in the Hong Kong Special

Administrative Region, they must obtain the consent of the government of the Region and the approval of the Central People's Government.

All offices set up in the Hong Kong Special Administrative Region by departments of the Central Government, or by provinces, autonomous regions, or municipalities directly under the Central Government, and the personnel of these offices shall abide by the laws of the Region.

*For entry into the Hong Kong Special Administrative Region, people from other parts of China must apply for approval. Among them, the number of persons who enter the Region for the purpose of settlement shall be determined by the competent authorities of the Central People's Government after consulting the government of the Region.

The Hong Kong Special Administrative Region may establish an office in Beijing.

Article 23

The Hong Kong Special Administrative Region shall enact laws on its own to prohibit any act of treason, secession, sedition, subversion against the Central People's Government, or theft of state secrets, to prohibit foreign political organizations or bodies from conducting political activities in the Region, and to prohibit political organizations or bodies of the Region from establishing ties with foreign political organizations or bodies.

Note:

* See The Interpretation by the Standing Committee of the National People's Congress of Articles 22(4) and 24(2)(3) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (Adopted at the Tenth Session of the Standing Committee of the Ninth National People's Congress on 26 June 1999) (see **Instrument 17**)

Chapter III: Fundamental Rights and Duties of the Residents

Article 24

Residents of the Hong Kong Special Administrative Region ("Hong Kong residents") shall include permanent residents and non-permanent residents.

The permanent residents of the Hong Kong Special Administrative Region shall be:

(1) Chinese citizens born in Hong Kong before or after the establishment of the Hong Kong Special Administrative Region;

(2) Chinese citizens who have ordinarily resided in Hong Kong for a continuous period of not less than seven years before or after the establishment of the Hong Kong Special Administrative Region;

*(3) Persons of Chinese nationality born outside Hong Kong of those residents listed in categories (1) and (2);

(4) Persons not of Chinese nationality who have entered Hong Kong with valid travel documents, have ordinarily resided in Hong Kong for a continuous period of not less than seven years and have taken Hong Kong as their place of permanent residence before or after the establishment of the Hong Kong Special Administrative Region;

(5) Persons under 21 years of age born in Hong Kong of those residents listed in category (4) before or after the establishment of the Hong Kong Special Administrative Region; and

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Note:

* See The Interpretation by the Standing Committee of the National People's Congress of Articles 22(4) and 24(2)(3) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (Adopted at the Tenth Session of the Standing Committee of the Ninth National People's Congress on 26 June 1999) (see **Instrument 17**)

(6) Persons other than those residents listed in categories (1) to (5), who, before the establishment of the Hong Kong Special Administrative Region, had the right of abode in Hong Kong only.

The above-mentioned residents shall have the right of abode in the Hong Kong Special Administrative Region and shall be qualified to obtain, in accordance with the laws of the Region, permanent identity cards which state their right of abode.

The non-permanent residents of the Hong Kong Special Administrative Region shall be persons who are qualified to obtain Hong Kong identity cards in accordance with the laws of the Region but have no right of abode.

Article 25

All Hong Kong residents shall be equal before the law.

Article 26

Permanent residents of the Hong Kong Special Administrative Region shall have the right to vote and the right to stand for election in accordance with law.

Article 27

Hong Kong residents shall have freedom of speech, of the press and of publication; freedom of association, of assembly, of procession and of demonstration; and the right and freedom to form and join trade unions, and to strike.

Article 28

The freedom of the person of Hong Kong residents shall be inviolable.

No Hong Kong resident shall be subjected to arbitrary or unlawful arrest, detention or imprisonment. Arbitrary or unlawful search of the body of any resident or deprivation or restriction of the freedom of the person shall be prohibited. Torture of any resident or arbitrary or

unlawful deprivation of the life of any resident shall be prohibited.

Article 29

The homes and other premises of Hong Kong residents shall be inviolable. Arbitrary or unlawful search of, or intrusion into, a resident's home or other premises shall be prohibited.

Article 30

The freedom and privacy of communication of Hong Kong residents shall be protected by law. No department or individual may, on any grounds, infringe upon the freedom and privacy of communication of residents except that the relevant authorities may inspect communication in accordance with legal procedures to meet the needs of public security or of investigation into criminal offences.

Article 31

Hong Kong residents shall have freedom of movement within the Hong Kong Special Administrative Region and freedom of emigration to other countries and regions. They shall have freedom to travel and to enter or leave the Region. Unless restrained by law, holders of valid travel documents shall be free to leave the Region without special authorization.

Article 32

Hong Kong residents shall have freedom of conscience.

Hong Kong residents shall have freedom of religious belief and freedom to preach and to conduct and participate in religious activities in public.

Article 33

Hong Kong residents shall have freedom of choice of occupation.

Article 34

Hong Kong residents shall have freedom to engage in academic research, literary and artistic creation, and other cultural activities.

Article 35

Hong Kong residents shall have the right to confidential legal advice, access to the courts, choice of lawyers for timely protection of their lawful rights and interests or for representation in the courts, and to judicial remedies.

Hong Kong residents shall have the right to institute legal proceedings in the courts against the acts of the executive authorities and their personnel.

Article 36

Hong Kong residents shall have the right to social welfare in accordance with law. The welfare benefits and retirement security of the labour force shall be protected by law.

Article 37

The freedom of marriage of Hong Kong residents and their right to raise a family freely shall be protected by law.

Article 38

Hong Kong residents shall enjoy the other rights and freedoms safeguarded by the laws of the Hong Kong Special Administrative Region.

Article 39

The provisions of the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and international labour conventions as applied to Hong Kong shall remain in force and shall be implemented through the laws of the Hong Kong Special Administrative Region.

The rights and freedoms enjoyed by Hong Kong residents shall not be restricted unless as prescribed by law. Such restrictions shall not contravene the provisions of the preceding paragraph of this Article.

Article 40

The lawful traditional rights and interests of the indigenous inhabitants of the "New Territories" shall be protected by the Hong Kong Special Administrative Region.

Article 41

Persons in the Hong Kong Special Administrative Region other than Hong Kong residents shall, in accordance with law, enjoy the rights and freedoms of Hong Kong residents prescribed in this Chapter.

Article 42

Hong Kong residents and other persons in Hong Kong shall have the obligation to abide by the laws in force in the Hong Kong Special Administrative Region.

Chapter IV: Political Structure

Section 1: The Chief Executive

Article 43

The Chief Executive of the Hong Kong Special Administrative Region shall be the head of the Hong Kong Special Administrative Region and shall represent the Region.

The Chief Executive of the Hong Kong Special Administrative Region shall be accountable to the Central People's Government and the Hong Kong Special Administrative Region in accordance with the provisions of this Law.

Article 44

The Chief Executive of the Hong Kong Special Administrative Region shall be a Chinese citizen of not less than 40 years of age who is a permanent resident of the Region with no right of abode in any foreign country and has ordinarily resided in Hong Kong for a continuous period of not less than 20 years.

Article 45

The Chief Executive of the Hong Kong Special Administrative Region shall be selected by election or through consultations held locally and be appointed by the Central People's Government.

The method for selecting the Chief Executive shall be specified in the light of the actual situation in the Hong Kong Special Administrative Region and in accordance with the principle of gradual and orderly progress. The ultimate aim is the selection of the Chief Executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures.

The specific method for selecting the Chief Executive is prescribed in Annex I "Method for the Selection of the Chief Executive of the Hong Kong Special Administrative Region".

Article 46

The term of office of the Chief Executive of the Hong Kong Special Administrative Region shall be five years. He or she may serve for not more than two consecutive terms.

Article 47

The Chief Executive of the Hong Kong Special Administrative Region must be a person of integrity, dedicated to his or her duties.

The Chief Executive, on assuming office, shall declare his or her assets to the Chief Justice of the Court of Final Appeal of the Hong Kong Special Administrative Region. This declaration shall be put on record.

Article 48

The Chief Executive of the Hong Kong Special Administrative Region shall exercise the following powers and functions:

(1) To lead the government of the Region;

(2) To be responsible for the implementation of this Law and other laws which, in accordance with this Law, apply in the Hong Kong Special Administrative Region;

(3) To sign bills passed by the Legislative Council and to promulgate laws;

To sign budgets passed by the Legislative Council and report the budgets and final accounts to the Central People's Government for the record;

(4) To decide on government policies and to issue executive orders;

(5) To nominate and to report to the Central People's Government for appointment the following principal officials: Secretaries and Deputy Secretaries of Departments, Directors of Bureaux, Commissioner Against Corruption, Director of Audit, Commissioner of Police, Director of Immigration and Commissioner of Customs and Excise; and to recommend to the Central People's Government the removal of the above-mentioned officials;

(6) To appoint or remove judges of the courts at all levels in accordance with legal procedures;

(7) To appoint or remove holders of public office in accordance with legal procedures;

(8) To implement the directives issued by the Central People's Government in respect of the relevant matters provided for in this Law;

(9) To conduct, on behalf of the Government of the Hong Kong Special Administrative Region, external affairs and other affairs as authorized by the Central Authorities;

(10) To approve the introduction of motions regarding revenues or expenditure to the Legislative Council;

(11) To decide, in the light of security and vital public interests, whether government officials or other personnel in charge of government affairs should testify or give evidence before the Legislative Council or its committees;

(12) To pardon persons convicted of criminal offences or commute their penalties; and

(13) To handle petitions and complaints.

Article 49

If the Chief Executive of the Hong Kong Special Administrative Region considers that a bill passed by the Legislative Council is not compatible with the overall interests of the Region, he or she may return it to the Legislative Council within three months for reconsideration. If the Legislative Council passes the original bill again by not less than a two-thirds majority of all the members, the Chief Executive must sign and promulgate it within one month, or act in accordance with the provisions of Article 50 of this Law.

Article 50

If the Chief Executive of the Hong Kong Special Administrative Region refuses to sign a bill passed the second time by the Legislative Council, or the Legislative Council refuses to pass a budget or any other important bill introduced by the government, and if consensus still cannot be reached after consultations, the Chief Executive may dissolve the Legislative Council.

The Chief Executive must consult the Executive Council before dissolving the Legislative Council. The Chief Executive may dissolve the Legislative Council only once in each term of his or her office.

Article 51

If the Legislative Council of the Hong Kong Special Administrative Region refuses to pass the budget introduced by the government, the Chief Executive may apply to the Legislative Council for provisional appropriations. If appropriation of public funds cannot be approved because the Legislative Council has already been dissolved, the Chief Executive may, prior to the election of the new Legislative Council, approve provisional short-term appropriations according to the level of expenditure of the previous fiscal year.

Article 52

The Chief Executive of the Hong Kong Special Administrative Region must resign under any of the following circumstances:

(1) When he or she loses the ability to discharge his or her duties as a result of serious illness or other reasons;

(2) When, after the Legislative Council is dissolved because he or she twice refuses to sign a bill passed by it, the new Legislative Council again passes by a two-thirds majority of all the members the original bill in dispute, but he or she still refuses to sign it; and

(3) When, after the Legislative Council is dissolved because it refuses to pass a budget or any other important bill, the new Legislative Council still refuses to pass the original bill in dispute.

Article 53

If the Chief Executive of the Hong Kong Special Administrative Region is not able to discharge his or her duties for a short period, such duties shall temporarily be assumed by the Administrative Secretary, Financial Secretary or Secretary of Justice in this order of precedence.

*In the event that the office of Chief Executive becomes vacant, a new Chief Executive shall be selected within six months in accordance with the provisions of Article 45 of this Law. During the period of vacancy, his or her duties shall be assumed according to the provisions of the preceding paragraph.

Article 54

The Executive Council of the Hong Kong Special Administrative Region shall be an organ for assisting the Chief Executive in policy-making.

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* See Interpretation of Paragraph 2, Article 53 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China by the Standing Committee of the National People's Congress (Adopted at the Fifteenth Session of the Standing Committee of the Tenth National People's Congress on 27 April 2005) (see **Instrument 20**)

Article 55

Members of the Executive Council of the Hong Kong Special Administrative Region shall be appointed by the Chief Executive from among the principal officials of the executive authorities, members of the Legislative Council and public figures. Their appointment or removal shall be decided by the Chief Executive. The term of office of members of the Executive Council shall not extend beyond the expiry of the term of office of the Chief Executive who appoints them.

Members of the Executive Council of the Hong Kong Special Administrative Region shall be Chinese citizens who are permanent residents of the Region with no right of abode in any foreign country.

The Chief Executive may, as he or she deems necessary, invite other persons concerned to sit in on meetings of the Council.

Article 56

The Executive Council of the Hong Kong Special Administrative Region shall be presided over by the Chief Executive.

Except for the appointment, removal and disciplining of officials and the adoption of measures in emergencies, the Chief Executive shall consult the Executive Council before making important policy decisions, introducing bills to the Legislative Council, making subordinate legislation, or dissolving the Legislative Council.

If the Chief Executive does not accept a majority opinion of the Executive Council, he or she shall put the specific reasons on record.

Article 57

A Commission Against Corruption shall be established in the Hong Kong Special Administrative Region. It shall function independently and be accountable to the Chief Executive.

Article 58

A Commission of Audit shall be established in the Hong Kong Special Administrative Region. It shall function independently and be accountable to the Chief Executive.

Section 2: The Executive Authorities

Article 59

The Government of the Hong Kong Special Administrative Region shall be the executive authorities of the Region.

Article 60

The head of the Government of the Hong Kong Special Administrative Region shall be the Chief Executive of the Region.

A Department of Administration, a Department of Finance, a Department of Justice, and various bureaux, divisions and commissions shall be established in the Government of the Hong Kong Special Administrative Region.

Article 61

The principal officials of the Hong Kong Special Administrative Region shall be Chinese citizens who are permanent residents of the Region with no right of abode in any foreign country and have ordinarily resided in Hong Kong for a continuous period of not less than 15 years.

Article 62

The Government of the Hong Kong Special Administrative Region shall exercise the following powers and functions:

(1) To formulate and implement policies;

(2) To conduct administrative affairs;

(3) Toconduct external affairs as authorized by the Central People's Government under this Law;

(4) To draw up and introduce budgets and final accounts;

(5) To draft and introduce bills, motions and subordinate legislation; and

(6) To designate officials to sit in on the meetings of the Legislative Council and to speak on behalf of the government.

Article 63

The Department of Justice of the Hong Kong Special Administrative Region shall control criminal prosecutions, free from any interference.

Article 64

The Government of the Hong Kong Special Administrative Region must abide by the law and be accountable to the Legislative Council of the Region: it shall implement laws passed by the Council and already in force; it shall present regular policy addresses to the Council; it shall answer questions raised by members of the Council; and it shall obtain approval from the Council for taxation and public expenditure.

Article 65

The previous system of establishing advisory bodies by the executive authorities shall be maintained.

Section 3: The Legislature

Article 66

The Legislative Council of the Hong Kong Special Administrative Region shall be the legislature of the Region.

Article 67

The Legislative Council of the Hong Kong Special Administrative Region shall be composed of Chinese citizens who are permanent residents of the Region with no right of abode in any foreign country. However, permanent residents of the Region who are not of Chinese

nationality or who have the right of abode in foreign countries may also be elected members of the Legislative Council of the Region, provided that the proportion of such members does not exceed 20 percent of the total membership of the Council.

Article 68

The Legislative Council of the Hong Kong Special Administrative Region shall be constituted by election.

The method for forming the Legislative Council shall be specified in the light of the actual situation in the Hong Kong Special Administrative Region and in accordance with the principle of gradual and orderly progress. The ultimate aim is the election of all the members of the Legislative Council by universal suffrage.

The specific method for forming the Legislative Council and its procedures for voting on bills and motions are prescribed in Annex II: "Method for the Formation of the Legislative Council of the Hong Kong Special Administrative Region and Its Voting Procedures".

Article 69

The term of office of the Legislative Council of the Hong Kong Special Administrative Region shall be four years, except the first term which shall be two years.

Article 70

If the Legislative Council of the Hong Kong Special Administrative Region is dissolved by the Chief Executive in accordance with the provisions of this Law, it must, within three months, be reconstituted by election in accordance with Article 68 of this Law.

Article 71

The President of the Legislative Council of the Hong Kong Special Administrative Region shall be elected by and from among the members of the Legislative Council.

The President of the Legislative Council of the Hong Kong Special Administrative Region shall be a Chinese citizen of not less than 40 years of age, who is a permanent resident of the Region with no right of abode in any foreign country and has ordinarily resided in Hong Kong for a continuous period of not less than 20 years.

Article 72

The President of the Legislative Council of the Hong Kong Special Administrative Region shall exercise the following powers and functions:

(1) To preside over meetings;

(2) To decide on the agenda, giving priority to government bills for inclusion in the agenda;

(3) To decide on the time of meetings;

(4) To call special sessions during the recess;

(5) To call emergency sessions on the request of the Chief Executive; and

(6) To exercise other powers and functions as prescribed in the rules of procedure of the Legislative Council.

Article 73

The Legislative Council of the Hong Kong Special Administrative Region shall exercise the following powers and functions:

(1) To enact, amend or repeal laws in accordance with the provisions of this Law and legal procedures;

(2) To examine and approve budgets introduced by the government;

(3) To approve taxation and public expenditure;

(4) To receive and debate the policy addresses of the Chief Executive;

(5) To raise questions on the work of the government;

(6) To debate any issue concerning public interests;

(7) To endorse the appointment and removal of the judges of the Court of Final Appeal and the Chief Judge of the High Court;

(8) To receive and handle complaints from Hong Kong residents;

(9) If a motion initiated jointly by one-fourth of all the members of the Legislative Council charges the Chief Executive with serious breach of law or dereliction of duty and if he or she refuses to resign, the Council may, after passing a motion for investigation, give a mandate to the Chief Justice of the Court of Final Appeal to form and chair an independent investigation committee. The committee shall be responsible for carrying out the investigation and reporting its findings to the Council. If the committee considers the evidence sufficient to substantiate such charges, the Council may pass a motion of impeachment by a two-thirds majority of all its members and report it to the Central People's Government for decision; and

(10) To summon, as required when exercising the above-mentioned powers and functions, persons concerned to testify or give evidence.

Article 74

Members of the Legislative Council of the Hong Kong Special Administrative Region may introduce bills in accordance with the provisions of this Law and legal procedures. Bills which do not relate to public expenditure or political structure or the operation of the government may be introduced individually or jointly by members of the Council. The written consent of the Chief Executive shall be required before bills relating to government policies are introduced.

Article 75

The quorum for the meeting of the Legislative Council of the Hong Kong Special Administrative Region shall be not less than one half of all its members.

The rules of procedure of the Legislative Council shall be made by the Council on its own, provided that they do not contravene this Law.

Article 76

A bill passed by the Legislative Council of the Hong Kong Special Administrative Region may take effect only after it is signed and promulgated by the Chief Executive.

Article 77

Members of the Legislative Council of the Hong Kong Special Administrative Region shall be immune from legal action in respect of their statements at meetings of the Council.

Article 78

Members of the Legislative Council of the Hong Kong Special Administrative Region shall not be subjected to arrest when attending or on their way to a meeting of the Council.

Article 79

The President of the Legislative Council of the Hong Kong Special Administrative Region shall declare that a member of the Council is no longer qualified for the office under any of the following circumstances:

(1) When he or she loses the ability to discharge his or her duties as a result of serious illness or other reasons;

(2) When he or she, with no valid reason, is absent from meetings for three consecutive months without the consent of the President of the Legislative Council;

(3) When he or she loses or renounces his or her status as a permanent resident of the Region;

(4) When he or she accepts a government appointment and becomes a public servant;

(5) When he or she is bankrupt or fails to comply with a court order to repay debts;

(6) When he or she is convicted and sentenced to imprisonment for one month or more for a criminal offence committed within or outside the Region and is relieved of his or her duties by a motion passed by two-thirds of the members of the Legislative Council present; and

(7) When he or she is censured for misbehaviour or breach of oath by a vote of two-thirds of the members of the Legislative Council present.

Section 4: The Judiciary

Article 80

The courts of the Hong Kong Special Administrative Region at all levels shall be the judiciary of the Region, exercising the judicial power of the Region.

Article 81

The Court of Final Appeal, the High Court, district courts, magistrates' courts and other special courts shall be established in the Hong Kong Special Administrative Region. The High Court shall comprise the Court of Appeal and the Court of First Instance.

The judicial system previously practised in Hong Kong shall be maintained except for those changes consequent upon the establishment

of the Court of Final Appeal of the Hong Kong Special Administrative Region.

Article 82

The power of final adjudication of the Hong Kong Special Administrative Region shall be vested in the Court of Final Appeal of the Region, which may as required invite judges from other common law jurisdictions to sit on the Court of Final Appeal.

Article 83

The structure, powers and functions of the courts of the Hong Kong Special Administrative Region at all levels shall be prescribed by law.

Article 84

The courts of the Hong Kong Special Administrative Region shall adjudicate cases in accordance with the laws applicable in the Region as prescribed in Article 18 of this Law and may refer to precedents of other common law jurisdictions.

Article 85

The courts of the Hong Kong Special Administrative Region shall exercise judicial power independently, free from any interference. Members of the judiciary shall be immune from legal action in the performance of their judicial functions.

Article 86

The principle of trial by jury previously practised in Hong Kong shall be maintained.

Article 87

In criminal or civil proceedings in the Hong Kong Special Administrative Region, the principles previously applied in Hong Kong and the rights previously enjoyed by parties to proceedings shall be maintained.

Anyone who is lawfully arrested shall have the right to a fair trial by the judicial organs without delay and shall be presumed innocent until convicted by the judicial organs.

Article 88

Judges of the courts of the Hong Kong Special Administrative Region shall be appointed by the Chief Executive on the recommendation of an independent commission composed of local judges, persons from the legal profession and eminent persons from other sectors.

Article 89

A judge of a court of the Hong Kong Special Administrative Region may only be removed for inability to discharge his or her duties, or for misbehaviour, by the Chief Executive on the recommendation of a tribunal appointed by the Chief Justice of the Court of Final Appeal and consisting of not fewer than three local judges.

The Chief Justice of the Court of Final Appeal of the Hong Kong Special Administrative Region may be investigated only for inability to discharge his or her duties, or for misbehaviour, by a tribunal appointed by the Chief Executive and consisting of not fewer than five local judges and may be removed by the Chief Executive on the recommendation of the tribunal and in accordance with the procedures prescribed in this Law.

Article 90

The Chief Justice of the Court of Final Appeal and the Chief Judge of the High Court of the Hong Kong Special Administrative Region shall be Chinese citizens who are permanent residents of the Region with no right of abode in any foreign country.

In the case of the appointment or removal of judges of the Court of Final Appeal and the Chief Judge of the High Court of the Hong Kong Special Administrative Region, the Chief Executive shall, in addition to following the procedures prescribed in Articles 88 and 89 of this Law,

obtain the endorsement of the Legislative Council and report such appointment or removal to the Standing Committee of the National People's Congress for the record.

Article 91

The Hong Kong Special Administrative Region shall maintain the previous system of appointment and removal of members of the judiciary other than judges.

Article 92

Judges and other members of the judiciary of the Hong Kong Special Administrative Region shall be chosen on the basis of their judicial and professional qualities and may be recruited from other common law jurisdictions.

Article 93

Judges and other members of the judiciary serving in Hong Kong before the establishment of the Hong Kong Special Administrative Region may all remain in employment and retain their seniority with pay, allowances, benefits and conditions of service no less favourable than before.

The Government of the Hong Kong Special Administrative Region shall pay to judges and other members of the judiciary who retire or leave the service in compliance with regulations, including those who have retired or left the service before the establishment of the Hong Kong Special Administrative Region, or to their dependants, all pensions, gratuities, allowances and benefits due to them on terms no less favourable than before, irrespective of their nationality or place of residence.

Article 94

On the basis of the system previously operating in Hong Kong, the Government of the Hong Kong Special Administrative Region may make provisions for local lawyers and lawyers from outside Hong Kong to work and practise in the Region.

Article 95

The Hong Kong Special Administrative Region may, through consultations and in accordance with law, maintain juridical relations with the judicial organs of other parts of the country, and they may render assistance to each other.

Article 96

With the assistance or authorization of the Central People's Government, the Government of the Hong Kong Special Administrative Region may make appropriate arrangements with foreign states for reciprocal juridical assistance.

Section 5: District Organizations

Article 97

District organizations which are not organs of political power may be established in the Hong Kong Special Administrative Region, to be consulted by the government of the Region on district administration and other affairs, or to be responsible for providing services in such fields as culture, recreation and environmental sanitation.

Article 98

The powers and functions of the district organizations and the method for their formation shall be prescribed by law.

Section 6: Public Servants

Article 99

Public servants serving in all government departments of the Hong Kong Special Administrative Region must be permanent residents of the Region, except where otherwise provided for in Article 101 of this Law

regarding public servants of foreign nationalities and except for those below a certain rank as prescribed by law.

Public servants must be dedicated to their duties and be responsible to the Government of the Hong Kong Special Administrative Region.

Article 100

Public servants serving in all Hong Kong government departments, including the police department, before the establishment of the Hong Kong Special Administrative Region, may all remain in employment and retain their seniority with pay, allowances, benefits and conditions of service no less favourable than before.

Article 101

The Government of the Hong Kong Special Administrative Region may employ British and other foreign nationals previously serving in the public service in Hong Kong, or those holding permanent identity cards of the Region, to serve as public servants in government departments at all levels, but only Chinese citizens among permanent residents of the Region with no right of abode in any foreign country may fill the following posts: the Secretaries and Deputy Secretaries of Departments, Directors of Bureaux, Commissioner Against Corruption, Director of Audit, Commissioner of Police, Director of Immigration and Commissioner of Customs and Excise.

The Government of the Hong Kong Special Administrative Region may also employ British and other foreign nationals as advisers to government departments and, when required, may recruit qualified candidates from outside the Region to fill professional and technical posts in government departments. These foreign nationals shall be employed only in their individual capacities and shall be responsible to the government of the Region.

Article 102

The Government of the Hong Kong Special Administrative Region shall pay to public servants who retire or who leave the service in

compliance with regulations, including those who have retired or who have left the service in compliance with regulations before the establishment of the Hong Kong Special Administrative Region, or to their dependants, all pensions, gratuities, allowances and benefits due to them on terms no less favourable than before, irrespective of their nationality or place of residence.

Article 103

The appointment and promotion of public servants shall be on the basis of their qualifications, experience and ability. Hong Kong's previous system of recruitment, employment, assessment, discipline, training and management for the public service, including special bodies for their appointment, pay and conditions of service, shall be maintained, except for any provisions for privileged treatment of foreign nationals.

Article 104

When assuming office, the Chief Executive, principal officials, members of the Executive Council and of the Legislative Council, judges of the courts at all levels and other members of the judiciary in the Hong Kong Special Administrative Region must, in accordance with law, swear to uphold the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China and swear allegiance to the Hong Kong Special Administrative Region of the People's Republic of China.

Chapter V: Economy

Section 1: Public Finance, Monetary Affairs, Trade, Industry and Commerce

Article 105

The Hong Kong Special Administrative Region shall, in accordance with law, protect the right of individuals and legal persons to the acquisition, use, disposal and inheritance of property and their right to compensation for lawful deprivation of their property.

Such compensation shall correspond to the real value of the property concerned at the time and shall be freely convertible and paid without undue delay.

The ownership of enterprises and the investments from outside the Region shall be protected by law.

Article 106

The Hong Kong Special Administrative Region shall have independent finances.

The Hong Kong Special Administrative Region shall use its financial revenues exclusively for its own purposes, and they shall not be handed over to the Central People's Government.

The Central People's Government shall not levy taxes in the Hong Kong Special Administrative Region.

Article 107

The Hong Kong Special Administrative Region shall follow the principle of keeping expenditure within the limits of revenues in drawing up its budget, and strive to achieve a fiscal balance, avoid deficits and keep the budget commensurate with the growth rate of its gross domestic product.

Article 108

The Hong Kong Special Administrative Region shall practise an independent taxation system.

The Hong Kong Special Administrative Region shall, taking the low tax policy previously pursued in Hong Kong as reference, enact laws on its own concerning types of taxes, tax rates, tax reductions, allowances and exemptions, and other matters of taxation.

Article 109

The Government of the Hong Kong Special Administrative Region shall provide an appropriate economic and legal environment for the maintenance of the status of Hong Kong as an international financial centre.

Article 110

The monetary and financial systems of the Hong Kong Special Administrative Region shall be prescribed by law.

The Government of the Hong Kong Special Administrative Region shall, on its own, formulate monetary and financial policies, safeguard the free operation of financial business and financial markets, and regulate and supervise them in accordance with law.

Article 111

The Hong Kong dollar, as the legal tender in the Hong Kong Special Administrative Region, shall continue to circulate.

The authority to issue Hong Kong currency shall be vested in the Government of the Hong Kong Special Administrative Region. The issue of Hong Kong currency must be backed by a 100 percent reserve fund. The system regarding the issue of Hong Kong currency and the reserve fund system shall be prescribed by law.

The Government of the Hong Kong Special Administrative Region may authorize designated banks to issue or continue to issue Hong Kong currency under statutory authority, after satisfying itself that any issue of

currency will be soundly based and that the arrangements for such issue are consistent with the object of maintaining the stability of the currency.

Article 112

No foreign exchange control policies shall be applied in the Hong Kong Special Administrative Region. The Hong Kong dollar shall be freely convertible. Markets for foreign exchange, gold, securities, futures and the like shall continue.

The Government of the Hong Kong Special Administrative Region shall safeguard the free flow of capital within, into and out of the Region.

Article 113

The Exchange Fund of the Hong Kong Special Administrative Region shall be managed and controlled by the government of the Region, primarily for regulating the exchange value of the Hong Kong dollar.

Article 114

The Hong Kong Special Administrative Region shall maintain the status of a free port and shall not impose any tariff unless otherwise prescribed by law.

Article 115

The Hong Kong Special Administrative Region shall pursue the policy of free trade and safeguard the free movement of goods, intangible assets and capital.

Article 116

The Hong Kong Special Administrative Region shall be a separate customs territory.

The Hong Kong Special Administrative Region may, using the name "Hong Kong, China", participate in relevant international organizations and international trade agreements (including preferential trade

arrangements), such as the General Agreement on Tariffs and Trade and arrangements regarding international trade in textiles.

Export quotas, tariff preferences and other similar arrangements, which are obtained or made by the Hong Kong Special Administrative Region or which were obtained or made and remain valid, shall be enjoyed exclusively by the Region.

Article 117

The Hong Kong Special Administrative Region may issue its own certificates of origin for products in accordance with prevailing rules of origin.

Article 118

The Government of the Hong Kong Special Administrative Region shall provide an economic and legal environment for encouraging investments, technological progress and the development of new industries.

Article 119

The Government of the Hong Kong Special Administrative Region shall formulate appropriate policies to promote and co-ordinate the development of various trades such as manufacturing, commerce, tourism, real estate, transport, public utilities, services, agriculture and fisheries, and pay regard to the protection of the environment.

Section 2: Land Leases

Article 120

All leases of land granted, decided upon or renewed before the establishment of the Hong Kong Special Administrative Region which extend beyond 30 June 1997, and all rights in relation to such leases, shall continue to be recognized and protected under the law of the Region.

Article 121

As regards all leases of land granted or renewed where the original leases contain no right of renewal, during the period from 27 May 1985 to 30 June 1997, which extend beyond 30 June 1997 and expire not later than 30 June 2047, the lessee is not required to pay an additional premium as from 1 July 1997, but an annual rent equivalent to 3 per cent of the rateable value of the property at that date, adjusted in step with any changes in the rateable value thereafter, shall be charged.

Article 122

In the case of old schedule lots, village lots, small houses and similar rural holdings, where the property was on 30 June 1984 held by, or, in the case of small houses granted after that date, where the property is granted to, a lessee descended through the male line from a person who was in 1898 a resident of an established village in Hong Kong, the previous rent shall remain unchanged so long as the property is held by that lessee or by one of his lawful successors in the male line.

Article 123

Where leases of land without a right of renewal expire after the establishment of the Hong Kong Special Administrative Region, they shall be dealt with in accordance with laws and policies formulated by the Region on its own.

Section 3: Shipping

Article 124

The Hong Kong Special Administrative Region shall maintain Hong Kong's previous systems of shipping management and shipping regulation, including the system for regulating conditions of seamen.

The Government of the Hong Kong Special Administrative Region shall, on its own, define its specific functions and responsibilities in respect of shipping.

Article 125

The Hong Kong Special Administrative Region shall be authorized by the Central People's Government to continue to maintain a shipping register and issue related certificates under its legislation, using the name "Hong Kong, China".

Article 126

With the exception of foreign warships, access for which requires the special permission of the Central People's Government, ships shall enjoy access to the ports of the Hong Kong Special Administrative Region in accordance with the laws of the Region.

Article 127

Private shipping businesses and shipping-related businesses and private container terminals in the Hong Kong Special Administrative Region may continue to operate freely.

Section 4: Civil Aviation

Article 128

The Government of the Hong Kong Special Administrative Region shall provide conditions and take measures for the maintenance of the status of Hong Kong as a centre of international and regional aviation.

Article 129

The Hong Kong Special Administrative Region shall continue the previous system of civil aviation management in Hong Kong and keep its own aircraft register in accordance with provisions laid down by the Central People's Government concerning nationality marks and registration marks of aircraft.

Access of foreign state aircraft to the Hong Kong Special Administrative Region shall require the special permission of the Central People's Government.

Article 130

The Hong Kong Special Administrative Region shall be responsible on its own for matters of routine business and technical management of civil aviation, including the management of airports, the provision of air traffic services within the flight information region of the Hong Kong Special Administrative Region, and the discharge of other responsibilities allocated to it under the regional air navigation procedures of the International Civil Aviation Organization.

Article 131

The Central People's Government shall, in consultation with the Government of the Hong Kong Special Administrative Region, make arrangements providing air services between the Region and other parts of the People's Republic of China for airlines incorporated in the Hong Kong Special Administrative Region and having their principal place of business in Hong Kong and other airlines of the People's Republic of China.

Article 132

All air service agreements providing air services between other parts of the People's Republic of China and other states and regions with stops at the Hong Kong Special Administrative Region and air services between the Hong Kong Special Administrative Region and other states and regions with stops at other parts of the People's Republic of China shall be concluded by the Central People's Government.

In concluding the air service agreements referred to in the first paragraph of this Article, the Central People's Government shall take account of the special conditions and economic interests of the Hong Kong Special Administrative Region and consult the government of the Region.

Representatives of the Government of the Hong Kong Special Administrative Region may, as members of the delegations of the Government of the People's Republic of China, participate in air service consultations conducted by the Central People's Government with

foreign governments concerning arrangements for such services referred to in the first paragraph of this Article.

Article 133

Acting under specific authorizations from the Central People's Government, the Government of the Hong Kong Special Administrative Region may:

(1) renew or amend air service agreements and arrangements previously in force;

(2) negotiate and conclude new air service agreements providing routes for airlines incorporated in the Hong Kong Special Administrative Region and having their principal place of business in Hong Kong and providing rights for over-flights and technical stops; and

(3) negotiate and conclude provisional arrangements with foreign states or regions with which no air service agreements have been concluded.

All scheduled air services to, from or through Hong Kong, which do not operate to, from or through the mainland of China shall be regulated by the air service agreements or provisional arrangements referred to in this Article.

Article 134

The Central People's Government shall give the Government of the Hong Kong Special Administrative Region the authority to:

(1) negotiate and conclude with other authorities all arrangements concerning the implementation of the air service agreements and provisional arrangements referred to in Article 133 of this Law;

(2) issue licences to airlines incorporated in the Hong Kong Special Administrative Region and having their principal place of business in Hong Kong;

(3) designate such airlines under the air service agreements and provisional arrangements referred to in Article 133 of this Law; and

(4) issue permits to foreign airlines for services other than those to, from or through the mainland of China.

Article 135

Airlines incorporated and having their principal place of business in Hong Kong and businesses related to civil aviation functioning there prior to the establishment of the Hong Kong Special Administrative Region may continue to operate.

Chapter VI: Education, Science, Culture, Sports, Religion, Labour and Social Services

Article 136

On the basis of the previous educational system, the Government of the Hong Kong Special Administrative Region shall, on its own, formulate policies on the development and improvement of education, including policies regarding the educational system and its administration, the language of instruction, the allocation of funds, the examination system, the system of academic awards and the recognition of educational qualifications.

Community organizations and individuals may, in accordance with law, run educational undertakings of various kinds in the Hong Kong Special Administrative Region.

Article 137

Educational institutions of all kinds may retain their autonomy and enjoy academic freedom. They may continue to recruit staff and use teaching materials from outside the Hong Kong Special Administrative Region. Schools run by religious organizations may continue to provide religious education, including courses in religion.

Students shall enjoy freedom of choice of educational institutions and freedom to pursue their education outside the Hong Kong Special Administrative Region.

Article 138

The Government of the Hong Kong Special Administrative Region shall, on its own, formulate policies to develop Western and traditional Chinese medicine and to improve medical and health services. Community organizations and individuals may provide various medical and health services in accordance with law.

Article 139

The Government of the Hong Kong Special Administrative Region shall, on its own, formulate policies on science and technology and protect by law achievements in scientific and technological research, patents, discoveries and inventions.

The Government of the Hong Kong Special Administrative Region shall, on its own, decide on the scientific and technological standards and specifications applicable in Hong Kong.

Article 140

The Government of the Hong Kong Special Administrative Region shall, on its own, formulate policies on culture and protect by law the achievements and the lawful rights and interests of authors in their literary and artistic creation.

Article 141

The Government of the Hong Kong Special Administrative Region shall not restrict the freedom of religious belief, interfere in the internal affairs of religious organizations or restrict religious activities which do not contravene the laws of the Region.

Religious organizations shall, in accordance with law, enjoy the rights to acquire, use, dispose of and inherit property and the right to receive financial assistance. Their previous property rights and interests shall be maintained and protected.

Religious organizations may, according to their previous practice, continue to run seminaries and other schools, hospitals and welfare institutions and to provide other social services.

Religious organizations and believers in the Hong Kong Special Administrative Region may maintain and develop their relations with religious organizations and believers elsewhere.

Article 142

The Government of the Hong Kong Special Administrative Region shall, on the basis of maintaining the previous systems concerning the professions, formulate provisions on its own for assessing the qualifications for practice in the various professions.

Persons with professional qualifications or qualifications for professional practice obtained prior to the establishment of the Hong Kong Special Administrative Region may retain their previous qualifications in accordance with the relevant regulations and codes of practice.

The Government of the Hong Kong Special Administrative Region shall continue to recognize the professions and the professional organizations recognized prior to the establishment of the Region, and these organizations may, on their own, assess and confer professional qualifications.

The Government of the Hong Kong Special Administrative Region may, as required by developments in society and in consultation with the parties concerned, recognize new professions and professional organizations.

Article 143

The Government of the Hong Kong Special Administrative Region shall, on its own, formulate policies on sports. Non-governmental sports organizations may continue to exist and develop in accordance with law.

Article 144

The Government of the Hong Kong Special Administrative Region shall maintain the policy previously practised in Hong Kong in respect of subventions for non-governmental organizations in fields such as education, medicine and health, culture, art, recreation, sports, social welfare and social work. Staff members previously serving in subvented organizations in Hong Kong may remain in their employment in accordance with the previous system.

Article 145

On the basis of the previous social welfare system, the Government of the Hong Kong Special Administrative Region shall, on its own, formulate policies on the development and improvement of this system in the light of the economic conditions and social needs.

Article 146

Voluntary organizations providing social services in the Hong Kong Special Administrative Region may, on their own, decide their forms of service, provided that the law is not contravened.

Article 147

The Hong Kong Special Administrative Region shall on its own formulate laws and policies relating to labour.

Article 148

The relationship between non-governmental organizations in fields such as education, science, technology, culture, art, sports, the professions, medicine and health, labour, social welfare and social work as well as religious organizations in the Hong Kong Special Administrative Region and their counterparts on the mainland shall be based on the principles of non-subordination, non-interference and mutual respect.

Article 149

Non-governmental organizations in fields such as education, science, technology, culture, art, sports, the professions, medicine and health, labour, social welfare and social work as well as religious organizations in the Hong Kong Special Administrative Region may maintain and develop relations with their counterparts in foreign countries and regions and with relevant international organizations. They may, as required, use the name "Hong Kong, China" in the relevant activities.

Chapter VII: External Affairs

Article 150

Representatives of the Government of the Hong Kong Special Administrative Region may, as members of delegations of the Government of the People's Republic of China, participate in negotiations at the diplomatic level directly affecting the Region conducted by the Central People's Government.

Article 151

The Hong Kong Special Administrative Region may on its own, using the name "Hong Kong, China", maintain and develop relations and conclude and implement agreements with foreign states and regions and relevant international organizations in the appropriate fields, including the economic, trade, financial and monetary, shipping, communications, tourism, cultural and sports fields.

Article 152

Representatives of the Government of the Hong Kong Special Administrative Region may, as members of delegations of the People's Republic of China, participate in international organizations or conferences in appropriate fields limited to states and affecting the Region, or may attend in such other capacity as may be permitted by the Central People's Government and the international organization or conference concerned, and may express their views, using the name "Hong Kong, China".

The Hong Kong Special Administrative Region may, using the name "Hong Kong, China", participate in international organizations and conferences not limited to states.

The Central People's Government shall take the necessary steps to ensure that the Hong Kong Special Administrative Region shall continue to retain its status in an appropriate capacity in those international organizations of which the People's Republic of China is a member and in which Hong Kong participates in one capacity or another.

The Central People's Government shall, where necessary, facilitate the continued participation of the Hong Kong Special Administrative Region in an appropriate capacity in those international organizations in which Hong Kong is a participant in one capacity or another, but of which the People's Republic of China is not a member.

Article 153

The application to the Hong Kong Special Administrative Region of international agreements to which the People's Republic of China is or becomes a party shall be decided by the Central People's Government, in accordance with the circumstances and needs of the Region, and after seeking the views of the government of the Region.

International agreements to which the People's Republic of China is not a party but which are implemented in Hong Kong may continue to be implemented in the Hong Kong Special Administrative Region. The Central People's Government shall, as necessary, authorize or assist the government of the Region to make appropriate arrangements for the application to the Region of other relevant international agreements.

Article 154

The Central People's Government shall authorize the Government of the Hong Kong Special Administrative Region to issue, in accordance with law, passports of the Hong Kong Special Administrative Region of the People's Republic of China to all Chinese citizens who hold permanent identity cards of the Region, and travel documents of the Hong Kong Special Administrative Region of the People's Republic of China to all other persons lawfully residing in the Region. The above passports and documents shall be valid for all states and regions and shall record the holder's right to return to the Region.

The Government of the Hong Kong Special Administrative Region may apply immigration controls on entry into, stay in and departure from the Region by persons from foreign states and regions.

Article 155

The Central People's Government shall assist or authorize the Government of the Hong Kong Special Administrative Region to conclude visa abolition agreements with foreign states or regions.

Article 156

The Hong Kong Special Administrative Region may, as necessary, establish official or semi-official economic and trade missions in foreign countries and shall report the establishment of such missions to the Central People's Government for the record.

Article 157

The establishment of foreign consular and other official or semi-official missions in the Hong Kong Special Administrative Region shall require the approval of the Central People's Government.

Consular and other official missions established in Hong Kong by states which have formal diplomatic relations with the People's Republic of China may be maintained.

According to the circumstances of each case, consular and other official missions established in Hong Kong by states which have no formal diplomatic relations with the People's Republic of China may be permitted either to remain or be changed to semi-official missions.

States not recognized by the People's Republic of China may only establish non-governmental institutions in the Region.

Chapter VIII: Interpretation and Amendment of the Basic Law

Article 158

The power of interpretation of this Law shall be vested in the Standing Committee of the National People's Congress.

The Standing Committee of the National People's Congress shall authorize the courts of the Hong Kong Special Administrative Region to interpret on their own, in adjudicating cases, the provisions of this Law which are within the limits of the autonomy of the Region.

The courts of the Hong Kong Special Administrative Region may also interpret other provisions of this Law in adjudicating cases. However, if the courts of the Region, in adjudicating cases, need to interpret the provisions of this Law concerning affairs which are the responsibility of the Central People's Government, or concerning the relationship between the Central Authorities and the Region, and if such interpretation will affect the judgments on the cases, the courts of the Region shall, before making their final judgments which are not appealable, seek an interpretation of the relevant provisions from the Standing Committee of the National People's Congress through the Court of Final Appeal of the Region. When the Standing Committee makes an interpretation of the provisions concerned, the courts of the Region, in applying those provisions, shall follow the interpretation of the Standing Committee. However, judgments previously rendered shall not be affected.

The Standing Committee of the National People's Congress shall consult its Committee for the Basic Law of the Hong Kong Special Administrative Region before giving an interpretation of this Law.

Article 159

The power of amendment of this Law shall be vested in the National People's Congress.

The power to propose bills for amendments to this Law shall be vested in the Standing Committee of the National People's Congress, the State Council and the Hong Kong Special Administrative Region. Amendment bills from the Hong Kong Special Administrative Region shall be submitted to the National People's Congress by the delegation of the Region to the National People's Congress after obtaining the consent of two-thirds of the deputies of the Region to the National People's Congress, two-thirds of all the members of the Legislative Council of the Region, and the Chief Executive of the Region.

Before a bill for amendment to this Law is put on the agenda of the National People's Congress, the Committee for the Basic Law of the Hong Kong Special Administrative Region shall study it and submit its views.

No amendment to this Law shall contravene the established basic policies of the People's of China regarding Hong Kong.

Chapter IX: Supplementary Provisions

Article 160

Upon the establishment of the Hong Kong Special Administrative Region, the laws previously in force in Hong Kong shall be adopted as laws of the Region except for those which the Standing Committee of the National People's Congress declares to be in contravention of this Law. If any laws are later discovered to be in contravention of this Law, they shall be amended or cease to have force in accordance with the procedure as prescribed by this Law.

Documents, certificates, contracts, and rights and obligations valid under the laws previously in force in Hong Kong shall continue to be valid and be recognized and protected by the Hong Kong Special Administrative Region, provided that they do not contravene this Law.

Annex I: Method for the Selection of the Chief Executive of the Hong Kong Special Administrative Region

1. The Chief Executive shall be elected by a broadly representative Election Committee in accordance with this Law and appointed by the Central People's Government.

#2. The Election Committee shall be composed of 800 members from the following sectors:

Industrial, commercial and financial sectors	200
The professions	200
Labour, social services, religious and other sectors	200
Members of the Legislative Council, representatives of district-based organizations, Hong Kong deputies to the National People's Congress, and representatives of Hong Kong members of the National Committee of the Chinese People's Political Consultative Conference	200

The term of office of the Election Committee shall be five years.

3. The delimitation of the various sectors, the organizations in each sector eligible to return Election Committee members and the number of such members returned by each of these organizations shall be prescribed by an electoral law enacted by the Hong Kong Special Administrative Region in accordance with the principles of democracy and openness.

Corporate bodies in various sectors shall, on their own, elect members to the Election Committee, in accordance with the number of seats allocated and the election method as prescribed by the electoral law.

Members of the Election Committee shall vote in their individual capacities.

#4. Candidates for the office of Chief Executive may be nominated jointly by not less than 100 members of the Election Committee. Each member may nominate only one candidate.

5. The Election Committee shall, on the basis of the list of nominees, elect the Chief Executive designate by secret ballot on a one-person-one-vote basis. The specific election method shall be prescribed by the electoral law.

6. The first Chief Executive shall be selected in accordance with the Decision of the National People's Congress of the People's Republic of China on the Method for the Formation of the First Government and the First Legislative Council of the Hong Kong Special Administrative Region.

*7. If there is a need to amend the method for selecting the Chief Executives for the terms subsequent to the year 2007, such amendments must be made with the endorsement of a two-thirds majority of all the members of the Legislative Council and the consent of the Chief Executive, and they shall be reported to the Standing Committee of the National People's Congress for approval.

Note:

For amendments to this Article, please see the Amendment to Annex I to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China Concerning the Method for the Selection of the Chief Executive of the Hong Kong Special Administrative Region (Approved at the Sixteenth Session of the Standing Committee of the Eleventh National People's Congress on 28 August 2010) (see **Instrument 1** and **Instrument 2**).

* See The Interpretation by the Standing Committee of the National People's Congress of Article 7 of Annex I and Article III of Annex II of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (Adopted at the Eighth Session of the Standing Committee of the Tenth National People's Congress on 6 April 2004) (see **Instrument 18**).

Instrument 1

*** Decision of the Standing Committee of the National People's Congress on Approving the "Amendment to Annex I to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China Concerning the Method for the Selection of the Chief Executive of the Hong Kong Special Administrative Region"**

(Adopted at the Sixteenth Session of the Standing Committee of the Eleventh National People's Congress on 28 August 2010)

The Standing Committee of the Eleventh National People's Congress at its Sixteenth Session decides as follows:

Pursuant to Annex I to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, "The Interpretation by the Standing Committee of the National People's Congress of Article 7 of Annex I and Article III of Annex II to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China" and the "Decision of the Standing Committee of the National People's Congress on Issues Relating to the Methods for Selecting the Chief Executive of the Hong Kong Special Administrative Region and for Forming the Legislative Council of the Hong Kong Special Administrative Region in the Year 2012 and on Issues Relating to Universal Suffrage", the "Amendment to Annex I to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China Concerning the Method for the Selection of the Chief Executive of the Hong Kong Special Administrative Region proposed by the Hong Kong Special Administrative Region" is approved.

The "Amendment to Annex I to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China Concerning the Method for the Selection of the Chief Executive of the Hong Kong Special Administrative Region" comes into effect on the date of approval.

Note:

* This English translation is prepared by the Department of Justice, Government of the Hong Kong Special Administrative Region. It is for reference purposes and has no legislative effect.

Instrument 2

*** Amendment to Annex I to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China Concerning the Method for the Selection of the Chief Executive of the Hong Kong Special Administrative Region**

(Approved at the Sixteenth Session of the Standing Committee of the Eleventh National People's Congress on 28 August 2010)

1. The Election Committee to elect the fourth term Chief Executive in 2012 shall be composed of 1200 members from the following sectors:

Industrial, commercial and financial sectors	300
The professions	300
Labour, social services, religious and other sectors	300
Members of the Legislative Council, representatives of members of the District Councils, representatives of the Heung Yee Kuk, Hong Kong deputies to the National People's Congress, and representatives of Hong Kong members of the National Committee of the Chinese People's Political Consultative Conference	300

The term of office of the Election Committee shall be five years.

2. Candidates for the office of Chief Executive may be nominated jointly by not less than 150 members of the Election Committee. Each member may nominate only one candidate.

Note:

* This English translation is prepared by the Department of Justice, Government of the Hong Kong Special Administrative Region. It is for reference purposes and has no legislative effect.

Annex II: Method for the Formation of the Legislative Council of the Hong Kong Special Administrative Region and Its Voting Procedures

I. Method for the formation of the Legislative Council

#1. The Legislative Council of the Hong Kong Special Administrative Region shall be composed of 60 members in each term. In the first term, the Legislative Council shall be formed in accordance with the Decision of the National People's Congress of the People's Republic of China on the Method for the Formation of the First Government and the First Legislative Council of the Hong Kong Special Administrative Region. The composition of the Legislative Council in the second and third terms shall be as follows:

Second term	
Members returned by functional constituencies	30
Members returned by the Election Committee	6
Members returned by geographical constituencies through direct elections	24
Third term	
Members returned by functional constituencies	30
Members returned by geographical constituencies through direct elections	30

2. Except in the case of the first Legislative Council, the above-mentioned Election Committee refers to the one provided for in Annex I of this Law. The division of geographical constituencies and the voting method for direct elections therein; the delimitation of functional sectors and corporate bodies, their seat allocation and election methods; and the method for electing members of the Legislative Council by the Election Committee shall be specified by an electoral law introduced by the Government of the Hong Kong Special Administrative Region and passed by the Legislative Council.

II. Procedures for voting on bills and motions in the Legislative Council

Unless otherwise provided for in this Law, the Legislative Council shall adopt the following procedures for voting on bills and motions:

The passage of bills introduced by the government shall require at least a simple majority vote of the members of the Legislative Council present.

The passage of motions, bills or amendments to government bills introduced by individual members of the Legislative Council shall require a simple majority vote of each of the two groups of members present: members returned by functional constituencies and those returned by geographical constituencies through direct elections and by the Election Committee.

*III. Method for the formation of the Legislative Council and its voting procedures subsequent to the year 2007

With regard to the method for forming the Legislative Council of the Hong Kong Special Administrative Region and its procedures for voting on bills and motions after 2007, if there is a need to amend the provisions of this Annex, such amendments must be made with the endorsement of a two-thirds majority of all the members of the Council and the consent of the Chief Executive, and they shall be reported to the Standing Committee of the National People's Congress for the record.

Note:

See the Amendment to Annex II to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China Concerning the Method for the Formation of the Legislative Council of the Hong Kong Special Administrative Region and Its Voting Procedures (Recorded at the Sixteenth Session of the Standing Committee of the Eleventh National People's Congress on 28 August 2010) (see **Instrument 3** and **Instrument 4**).

* See The Interpretation by the Standing Committee of the National People's Congress of Article 7 of Annex I and Article III of Annex II of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (Adopted at the Eighth Session of the Standing Committee of the Tenth National People's Congress on 6 April 2004) (see **Instrument 18**).

Instrument 3

*** Proclamation of the Standing Committee of the National People's Congress (Eleventh National People's Congress) No. 15**

It is promulgated that pursuant to Annex II to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, "The Interpretation by the Standing Committee of the National People's Congress of Article 7 of Annex I and Article III of Annex II to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China" and the "Decision of the Standing Committee of the National People's Congress on Issues Relating to the Methods for Selecting the Chief Executive of the Hong Kong Special Administrative Region and for Forming the Legislative Council of the Hong Kong Special Administrative Region in the Year 2012 and on Issues Relating to Universal Suffrage", the "Amendment to Annex II to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China Concerning the Method for the Formation of the Legislative Council of the Hong Kong Special Administrative Region and Its Voting Procedures" is recorded by the Standing Committee of the National People's Congress.

The "Amendment to Annex II to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China Concerning the Method for the Formation of the Legislative Council of the Hong Kong Special Administrative Region and Its Voting Procedures" comes into effect on the date of promulgation.

This proclamation is hereby made.

Standing Committee of the National People's Congress
28 August 2010

Note:

* This English translation is prepared by the Department of Justice, Government of the Hong Kong Special Administrative Region. It is for reference purposes and has no legislative effect.

* Amendment to Annex II to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China Concerning the Method for the Formation of the Legislative Council of the Hong Kong Special Administrative Region and Its Voting Procedures

(Recorded at the Sixteenth Session of the Standing Committee of the Eleventh National People's Congress on 28 August 2010)

The fifth term Legislative Council in the year 2012 shall be composed of 70 members, and the composition shall be as follows:

Members returned by functional constituencies	35
Members returned by geographical constituencies through direct elections	35

Note:

* This English translation is prepared by the Department of Justice, Government of the Hong Kong Special Administrative Region. It is for reference purposes and has no legislative effect.

Annex III: National Laws to be Applied in the Hong Kong Special Administrative Region*

The following national laws shall be applied locally with effect from 1 July 1997 by way of promulgation or legislation by the Hong Kong Special Administrative Region:

1. Resolution on the Capital, Calendar, National Anthem and National Flag of the People's Republic of China

2. Resolution on the National Day of the People's Republic of China

3. Order on the National Emblem of the People's Republic of China Proclaimed by the Central People's Government

Attached: Design of the national emblem, notes of explanation and instructions for use

4. Declaration of the Government of the People's Republic of China on the Territorial Sea

5. Nationality Law of the People's Republic of China

6. Regulations of the People's Republic of China Concerning Diplomatic Privileges and Immunities

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Note:

* For addition to and deletion from the list of laws in Annex III, please see:

a. Decision of the Standing Committee of the National People's Congress on the addition to or deletion from the list of national laws in Annex III to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (Adopted at the Twenty Sixth Session of the Standing Committee of the Eighth National People's Congress on 1 July 1997) (see **Instrument 5**);

b. Decision of the Standing Committee of the National People's Congress on the addition to the list of national laws in Annex III to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (Adopted on 4 November 1998) (see **Instrument 6**); and

c. Decision of the Standing Committee of the National People's Congress on the addition to the list of national laws in Annex III to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (Adopted on 27 October 2005) (see **Instrument 7**).

* Decision of the Standing Committee of the National People's Congress on the Addition to or Deletion from the List of National Laws in Annex III to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China

(Adopted at the Twenty Sixth Session of the Standing Committee of the Eighth National People's Congress on 1 July 1997)

I. The following national laws are added to the list of laws in Annex III to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China:

(1) Law of the People's Republic of China on the National Flag;

(2) Regulations of the People's Republic of China concerning Consular Privileges and Immunities;

(3) Law of the People's Republic of China on the National Emblem;

(4) Law of the People's Republic of China on the Territorial Sea and the Contiguous Zone;

(5) Law of the People's Republic of China on the Garrisoning of the Hong Kong Special Administrative Region.

The above national laws shall be applied with effect from 1 July 1997 by way of promulgation or legislation by the Hong Kong Special Administrative Region.

II. The following national law is deleted from Annex III to the Basic Law of the Hong Kong Special Administrative Region:

Order on the National Emblem of the People's Republic of China Proclaimed by the Central People's Government.

Attached: Design of the national emblem, notes of explanation and instructions for use.

Note:

* This English translation is prepared by the Department of Justice, Government of the Hong Kong Special Administrative Region. It is for reference purposes and has no legislative effect.

Instrument 6

*** Decision of the Standing Committee of the National People's Congress on the Addition to the List of National Laws in Annex III to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China**

(Adopted on 4 November 1998)

The Fifth meeting of the Standing Committee of the Ninth National People's Congress decides: the national law being the "Law of the People's Republic of China on the Exclusive Economic Zone and the Continental Shelf" is added to the list of laws in Annex III to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China.

Note:

* This English translation is prepared by the Department of Justice, Government of the Hong Kong Special Administrative Region. It is for reference purposes and has no legislative effect.

Instrument 7

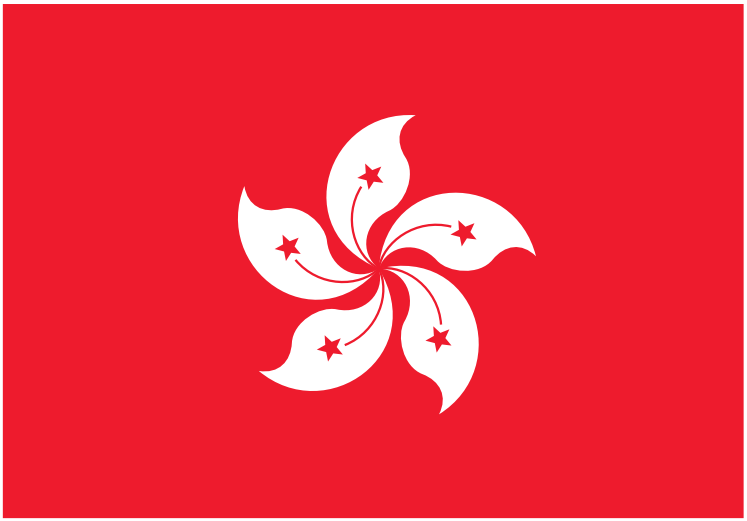
*** Decision of the Standing Committee of the National People's Congress on the Addition to the List of National Laws in Annex III to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China**

(Adopted on 27 October 2005)

The Eighteenth meeting of the Standing Committee of the Tenth National People's Congress decides: the national law being the "Law of the People's Republic of China on Judicial Immunity from Compulsory Measures Concerning the Property of Foreign Central Banks" is added to the list of laws in Annex III to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China.

Note:

* This English translation is prepared by the Department of Justice, Government of the Hong Kong Special Administrative Region. It is for reference purposes and has no legislative effect.



The Design of the Regional Flag of the Hong Kong Special Administrative Region

The Design of the Regional Emblem of the Hong Kong Special Administrative Region

Instrument 8

* Explanations on "The Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (Draft)" and Its Related Documents

(Addressing the Third Session of the Seventh National People's Congress on March 28, 1990)

Ji Pengfei
Chairman of the Drafting Committee for the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China

Fellow Deputies,

Through four years and eight months of effort, the Drafting Committee for The Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China has completed the work of drafting the Basic Law. The Standing Committee of the National People's Congress has submitted to the current session of the National People's Congress for examination "The Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (Draft)" and three annexes; the draft designs of the regional flag and regional emblem for the Hong Kong Special Administrative Region: " The Decision of the National People's Congress of the People's Republic of China on the Method for the Formation of the First Government and the First Legislative Council of the Hong Kong Special Administrative Region (Draft)," which has been worked out by the Drafting Committee on behalf of the National People's Congress; and "The Proposal by the Drafting Committee for the Basic Law of the Hong Kong Special Administrative Region on the Establishment of the Committee for the Basic Law of the Hong Kong Special Administrative Region under the Standing Committee of the National People's Congress." I have been entrusted by the Drafting Committee for the Basic Law of the Hong Kong Special Administrative Region to make the following explanations concerning this legal document.

In accordance with "The Decision of the Third Session of the

Sixth National People's Congress on the Establishment of the Drafting Committee for the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China," at its 11th session the Standing Committee of the Sixth National People's Congress appointed the members of the Hong Kong Basic Law Drafting Committee. On July 1, 1985, the Drafting Committee was officially established and began its work. After mapping out its work plans and deciding upon the structure of the Basic Law, the Drafting Committee set up five special groups consisting of committee members from both the mainland and Hong Kong. The five groups, namely, the Special Group Concerned with the Relationship between the Central Authorities and the Hong Kong Special Administrative Region; the Special Group Concerned with Fundamental Rights and Duties of Residents; the Special Group Concerned with the Political Structure; the Special Group Concerned with the Economy; and the Special Group Concerned with Education, Science, Technology Culture, Sports and Religion, were responsible for the drafting work. After these special groups worked out their first draft of provisions of the Basic Law, the General Working Group was set up to make overall adjustment and revision of the draft provisions. In April 1988, the seventh plenary session of the Hong Kong Basic Law Drafting Committee issued "The Draft Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China for Solicitation of Opinions." In the next five months, the Committee widely collected opinions from Hong Kong and the provinces, autonomous regions, municipalities directly under the Central Government and relevant departments on the mainland and, based on the collected opinions, the Committee made more than 100 revisions in the draft version. In January 1989, at its eighth plenary session, the Drafting Committee voted by secret ballot on the draft Hong Kong Basic Law and its annexes and related documents to be submitted to the Standing Committee of the National People's Congress, article by article and document by document. Except for Article 19 in the draft Basic Law, all other provisions, annexes and related documents were adopted by a two-thirds majority. At its sixth session held in February 1989, the Standing Committee of the Seventh National People's Congress decided to promulgate the Hong Kong Basic Law (Draft), its annexes and other related documents to widely solicit opinions from Hong Kong; from the provinces, autonomous regions and municipalities directly under the Central Government on the mainland; and from central government

departments, democratic parties, mass organizations and experts as well as from the general departments of the People's Liberation Army. After an eight-month opinion-soliciting period followed by a careful study of the opinions collected from all circles, the special groups jointly put forward 24 amendment bills, including the one regarding Article 19 in the Hong Kong Basic Law (Draft). At the ninth plenary session of the Drafting Committee in February this year, those amendment bills were voted upon by secret ballot one by one and all of them were passed by an over two-thirds majority. Then, all relevant provisions in the original draft were replaced by provisions recommended by the amendment bills. With this, the work of drawing up the Hong Kong Basic Law (Draft), its annexes and other related documents was complete.

The collection and selection of designs for the regional flag and regional emblem of the Hong Kong Special Administrative Region was the responsibility of the Committee for Selecting Designs for the Regional Flag and Regional Emblem of the Hong Kong Special Administrative Region, consisting of five drafters of the Basic Law and six experts from both Hong Kong and the mainland. After the selecting committee conducted the first and second rounds of selection from the 7,147 contributed designs, the Basic Law Drafting Committee examined and appraised the candidates recommended by the selecting committee. Since the Drafting Committee failed to decide upon a single set of designs for the regional flag and regional emblem to be submitted to the National People's Congress for examination, the selecting committee again worked out three sets of candidate designs of the regional flag and regional emblem for the Hong Kong Special Administrative Region through collective modification of certain contributed designs. The draft designs of the regional flag and regional emblem to be submitted to the National People's Congress for examination were finally selected at the ninth plenary session of the Basic Law Drafting Committee through a secret ballot. Also at the session, the second and third paragraphs under Article 10 of the draft Basic Law regarding the regional flag and regional emblem of the Special Administrative Region were passed.

Over this period of more than four years, the Drafting Committee has held nine plenary sessions, 25 meetings of the Chairman and Vice-Chairmen and two enlarged meetings of the Chairman and Vice-

Chairmen; the General Working Group held three meetings; the Special Groups met 73 times; and even the Committee for Selecting Designs for the Regional Flag and Regional Emblem of the Hong Kong Special Administrative Region held five meetings.

In reviewing the work done over this period of more than four years, we must say that drafting of this legal document was conducted in a very democratic and open manner. During the process of drafting the Basic Law, members of the Drafting Committee worked together with one heart and pooled their wisdom and efforts; and each and every article of the document was worked out after investigation, study and full discussion in which views of the majority were followed and those of the minority respected. After every meeting, reporters covering the event were briefed and the Consultative Committee for the Basic Law of the Hong Kong Special Administrative Region was immediately informed of its proceedings. The work of drafting the Basic Law was completed with the close attention and broad participation of the entire nation, especially the compatriots and people from all circles in Hong Kong. What is especially noteworthy here is that the Hong Kong Basic Law Consultative Committee, formed by people from all walks of life in Hong Kong, collected a great amount of opinions and suggestions in Hong Kong on the Basic Law and promptly referred them to the Drafting Committee and has rendered active and effective assistance to the work of drafting the Basic Law from the very beginning. The work of the Consultative Committee has been praised by the drafters.

Fellow Deputies,

The draft Basic Law that has been submitted to the current session of the National People's Congress for examination includes a Preamble and 160 articles in nine chapters. The nine chapters are: Chapter I, General Principles; Chapter II, Relationship Between the Central Authorities and the Hong Kong Special Administrative Region; Chapter III, Fundamental Rights and Duties of the Residents; Chapter IV, Political Structure; Chapter V, Economy; Chapter VI, Education, Science, Culture, Sports, Religion, Labour and Social Services; Chapter VII, External Affairs; Chapter VIII, Interpretation and Amendment of the Basic Law; and Chapter IX, Supplementary Provisions. There are also

three annexes, namely, Annex I: Method for the Selection of the Chief Executive of the Hong Kong Special Administrative Region; Annex II: Method for the Formation of the Legislative Council of the Hong Kong Special Administrative Region and Its Voting Procedures; and Annex III: National Laws to be Applied in the Hong Kong Special Administrative Region.

I. On the Guiding Principle of Drafting the Hong Kong Basic Law

"One country, two systems" is the fundamental policy of the Chinese Government for bringing about the country's reunification. In line with this policy, the Chinese Government has formulated a series of principles and policies regarding Hong Kong. The main point is to establish a special administrative region directly under the Central People's Government when China resumes its sovereignty over Hong Kong. Except for national defence and foreign affairs, which are to be administered by the Central Government, the Hong Kong Special Administrative Region will exercise a high degree of autonomy; no socialist system or policies will be practiced in the Region, the original capitalist society, economic system and way of life will remain unchanged and the laws previously in force in Hong Kong will remain basically the same; Hong Kong's status as an international financial centre and free port will be maintained; and the economic interests of Britain and other countries in Hong Kong will be taken into consideration. The Chinese Government has written the above principles and policies into the Sino-British Joint Declaration on the Question of Hong Kong and proclaimed that all the principles and policies regarding Hong Kong will remain unchanged for 50 years, which is to be codified in the Basic Law. The concept of "one country, two system" and all the principles and policies regarding Hong Kong formulated on the basis of this concept provide the fundamental guarantee for the resumption of China's sovereignty over Hong Kong and the maintenance of Hong Kong's stability and prosperity; they also conform to the basic interests of the Chinese people, particularly those of the Hong Kong compatriots.

Article 31 of China's Constitution stipulates that "the state may establish special administrative regions when necessary. The systems to be instituted in special administrative regions shall be prescribed by law

enacted by the National People's Congress in the light of the specific conditions." China is a socialist country and socialism is China's basic system. To realize China's reunification, however, another kind of social system, namely, the capitalist system, may be practiced in individual regions of the country. It is on the basis of China's Constitution and with "one country, two system" as the guiding principle that all the state principles and policies regarding Hong Kong have been established in the draft Hong Kong Basic Law, which has been submitted to the present session of the National People's Congress for examination.

II. On the relationship between the Central Authorities and the Hong Kong Special Administrative Region

The relationship between the Central Authorities and the Hong Kong Special Administrative Region is one of the important issues defined by the Basic Law and is touched upon not only in Chapter II but also in Chapter I, Chapter VII, Chapter VIII and other chapters.

Article 12 of the draft stipulates, "The Hong Kong Special Administrative Region shall be a local administrative region of the People's Republic of China, which shall enjoy a high degree of autonomy and come directly under the Central People's Government." This stipulation defines that legal status of the Hong Kong Special Administrative Region and constitutes the basis for specifying the Region's limits of power and its relationship with the Central Authorities. The Hong Kong Special Administrative Region, as an inalienable part of the People's Republic of China, will be a local administrative region directly under the Central People's Government and at the same time, it will be a special administrative region enjoying a high degree of autonomy and practicing a system and executing policies different from those of the mainland. Therefore, the draft Basic Law contains both provisions embodying the unity and sovereignty of the country and provisions empowering the Special Administrative Region with a high degree of autonomy in the light of Hong Kong's special circumstances.

The power to be exercised by, or the affairs which are the responsibility of the Standing Committee of the National People's Congress or the Central People's Government, as prescribed in the draft

law, is indispensable to maintaining the state sovereignty. For example, the Central People's Government will be responsible for the Special Administrative Region's defence and foreign affairs and the Chief Executive and other principal officials of the Special Administrative Region will be appointed by the Central People's Government; a small number of national laws relating to defence and foreign affairs as well as other matters beyond the limits of the autonomy of the Special Administrative Region will be applied locally by way of promulgation or legislation by the Special Administrative Region; and in the event that the National People's Congress Standing Committee decides to declare a state of war or, by reason of turmoil within the Hong Kong Special Administrative Region which endangers national unity or security and is beyond the control of the Special Administrative Region Government, decides that the Region is in a state of emergency, the Central People's Government may issue an order applying the relevant national laws in Hong Kong. The draft law also stipulates that the Hong Kong Special Administrative Region shall enact laws on its own to prohibit any act of treason, secession, sedition, or subversion against the Central People's Government, or theft of state secret, to prohibit foreign political organizations or bodies from conducting political activities in the Region, and to prohibit political organizations or bodies of the Region from establishing ties with foreign political organizations or bodies. These stipulations are entirely necessary for maintaining the state sovereignty, unity and territorial integrity as well as for preserving Hong Kong's long-term stability and prosperity.

The high degree of autonomy to be enjoyed by the Special Administrative Region, as stipulated in the draft, embodies executive, legislative and independent judicial power, including that of final adjudication. The Special Administrative Region, authorized by the Central People's Government, also has the power to conduct relevant external affairs on its own. This shows that the Hong Kong Special Administrative Region will enjoy extensive autonomy.

Regarding the executive power, the draft law, while stipulating that the Special Administrative Region shall, on its own, conduct the administrative affairs of Hong Kong in accordance with the Basic Law, specifically defines the Special Administrative Region's autonomy in

areas such as finance, economy, industry commerce, trade, transport and communications, development and management of land and natural resources, education, science and technology, culture, sports, public order and control of entry and exit activities. For instance, the draft law stipulates that the Special Administrative Region shall have independent finances, its revenues shall not be handed over to the Central Government, and the Central Government shall not levy taxes in the Region; and the Special Administrative Region may, on its own, formulate monetary and financial policies, the Hong Kong dollar shall be the legal tender in the Region, and the authority to issue Hong Kong currency shall be vested in the Special Administrative Region Government. Also, the draft stipulates that representatives of the Special Administrative Region Government may act as members of delegations of the Chinese Government to participate in negotiations at the diplomatic level affecting Hong Kong; the Special Administrative Region may on its own, using the name "Hong Kong, China," maintain and develop relations and conclude and implement agreements with foreign states and regions and relevant international organizations in economic, trade, financial and monetary, shipping, communications, tourism, cultural, sports and other appropriate fields.

Regarding the legislative power, the draft stipulates that laws enacted by the Hong Kong Special Administrative Region legislature shall take effect upon the signature and promulgation by the Chief Executive. The laws shall be reported to the National People's Congress Standing Committee for the record, but they will go into force without being affected by this reporting. The draft also stipulates that only when it considers that any law enacted by the Special Administrative Region legislature is not in conformity with the provisions of the Basic Law regarding affairs within the responsibility of the Central Authorities or regarding the relationship between the Central Authorities and the Region, shall the National People's Congress Standing Committee return the law in question; the Standing Committee shall not amend it. Any law returned by the National People's Congress Standing Committee shall immediately be invalidated. These stipulations not only conform with the "one country, two systems" principle and are in line with provisions of the Constitution, but also take into full consideration the need for Hong Kong to enjoy a high degree of autonomy.

According to the Constitution, interpretation of laws is among the powers and functions of the National People's Congress Standing Committee. To take into account Hong Kong's special circumstances, the draft Basic Law, while stipulating that the power of interpretation of the Basic Law shall be vested in the National People's Congress Standing Committee, provides that the National People's Congress Standing Committee shall authorizes the courts of the Hong Kong Special Administrative Region to interpret on their own, in adjudicating cases, the provisions of the Basic Law which are within the limits of the autonomy of the Region. This stipulation will guarantee the power of the National People's Congress Standing Committee and also facilitate the Hong Kong Special Administrative Region in exercising its autonomy. According to the draft, the Hong Kong Special Administrative Region courts may also interpret other provisions of the Basic Law in adjudicating cases. However, if the courts, in adjudicating cases, need to interpret the provisions of the Basic Law concerning affairs which are the responsibility of the Central People's Government, or the relationship between the Central Authorities and the Region, and if such interpretation will affect their final judgements on the cases, the courts shall seek an interpretation of the relevant provisions from the National People's Congress Standing Committee through the Court of Final Appeal of the Region. The courts, in applying those provisions, shall follow the interpretation of the National People's Congress Standing Committee. This stipulation will provide the basis for the Region's courts, in adjudicating cases, to comprehend the provisions of the Basic Law concerning affairs which are the responsibility of the Central Government or the relationship between the Central Authorities and the Hong Kong Special Administrative Region, and prevent the courts from making erroneous judgements due to inaccurate understanding.

The draft vests the courts of the Special Administrative Region with independent judicial power, including that of final adjudication. This is certainly a very special situation wherein courts in a local administrative region enjoy the power of final adjudication. Nevertheless, in view of the fact that Hong Kong will practise social and legal systems different from the mainland's, this provision is necessary. Under the current judicial system and principles, the Hong Kong authorities have never exercised jurisdiction over acts of state such as defence and foreign affairs. While

preserving the above principle, the draft stipulates that the courts of the Hong Kong Special Administrative Region shall obtain a certificate from the Chief Executive on questions of fact concerning acts of state such as defense and foreign wherever such questions arise in the adjudication of cases. This certificate shall be binding on the courts. However, before issuing such a certificate, the Chief Executive shall obtain a certifying document from the Central People's Government. This stipulation not only appropriately solves the question of jurisdiction over acts of state, but also guarantees that the courts of the Region can conduct their functions in a normal way.

In additional, in order to enable the National People's Congress Standing Committee to heed fully the opinions of the people from all walks of life in Hong Kong when it makes decisions on whether a law enacted by the Special Administrative Region legislature conforms to the provisions concerning affairs within the responsibility of the Central Authorities or to the provisions concerning the relationship between the Central Authorities and the Special Administrative Region, decisions on adding to or deleting from the list of national laws which are applicable in the Hong Kong Special Administrative Region in Annex III and decisions on the interpretation of and amendment to the Basic Law, the drafters have recommended that when the Basic Law comes into force, a working committee be set up under the National People's Congress Standing Committee to submit its views regarding the above questions to the National People's Congress Standing Committee. The working committee shall be composed of people from the mainland and Hong Kong. To this end, the Hong Kong Basic Law Drafting Committee has drafted the "Proposal by the Drafting Committee for the Basic Law of the Hong Kong Special Administrative Region on the Establishment of the Committee for the Basic Law of the Hong Kong Special Administrative Region under the Standing Committee of the National People's Congress."

III. On the Fundamental Rights and Duties of Hong Kong Residents

The extensive rights and freedoms enjoyed by the residents of the Hong Kong Special Administrative Region and other people residing in the Region as prescribed in Chapter III of the draft Basic Law include

political, economic, cultural, social and family rights and freedoms and the freedom of person. The special features in the provisions concerning Hong Kong residents' rights and freedoms in the draft Basic Law boil down to the following two basic points:

(1) The draft provides multi-level protection for Hong Kong residents' rights and freedoms. In accordance with the characteristics of the composition of Hong Kong residents, the draft stipulates not only the general rights and freedoms enjoyed by Hong Kong residents, but also the rights of the permanent residents and Chinese citizens living among them. It also stipulates that people other than Hong Kong residents also enjoy the rights and freedoms of Hong Kong residents in accordance with the law. In additional, while stipulating in explicit terms the fundamental rights and freedoms of Hong Kong residents, the draft also stipulates that Hong Kong residents shall enjoy the other rights and freedoms safeguarded by the laws of the Hong Kong Special Administrative Region. In view of the application in Hong Kong of the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and international labour conventions, the draft stipulates that those provisions shall remain in force and be implemented through the laws of the Special Administrative Region. In addition to a chapter specially devoted to Hong Kong residents' rights and freedoms, there are also provisions concerning the issue in other relevant chapters and articles. Thus, extensive, comprehensive and multi-level protection is provided for safeguarding Hong Kong residents' rights and freedoms.

(2) The rights, freedoms and duties of Hong Kong residents are prescribed in the draft in accordance with the principle of "one country, two systems" and in the light of Hong Kong's actual situation. They include such specific provisions as protection of private ownership of property, the freedom of movement and freedom to enter or leave the Region, the right to raise a family freely and protection of private persons' and legal entitles' property. The draft also provides that the systems to safeguard the fundamental rights and freedoms of Hong Kong residents shall all be based on the Basic Law.

IV. On the Political Structure

Chapter IV of the draft Basic Law mainly defines the formation and powers of and inter-relationship among the executive, legislature and judiciary, as well as the qualifications, powers and functions of and relevant policies regarding the Chief Executive, principal officials, members of the executive and legislative councils, judges of the courts at all levels and other members of the judiciary, and public servants of the Hong Kong Special Administrative Region. It also provides that district organizations which are not organs of political power may be established in the Region.

The political structure of the Hong Kong Special Administrative Region should accord with the principle of "one country, two systems" and aim to maintain stability and prosperity in Hong Kong in line with its legal status and actual situation. To this end, consideration must be given to the interests of the different sectors of society and the structure must facilitate the development of the capitalist economy in the Region. While the part of the existing political structure proven to be effective will be maintained, a democratic system that suits Hong Kong's reality should gradually be introduced. In accordance with this principle, Chapter IV and Annexes I and II of the Basic Law contain the following major provisions concerning the political structure of the Hong Kong Special Administrative Region:

(1) The relationship between the executive authorities and the legislature. The executive authorities and the legislature should regulate each other as well as co-ordinate their activities. To maintain Hong Kong's stability and administrative efficiency, the Chief Executive must have real power which, at the same time, should be subject to some restrictions. The draft provides for the Chief Executive to be the head of the Hong Kong Special Administrative Region and accountable to the Central People's Government and the Hong Kong Special Administrative Region. He or she is to lead the government of the Region, sign bills and budgets and promulgate laws. If the Chief Executive considers a bill passed by the Legislative Council to be not compatible with the overall interests of the Region, he or she may return it to the Legislative Council for reconsideration. If the Chief Executive refuses to sign a bill passed

the second time by the Legislative Council, or the Legislative Council refuses to pass a budget or any other important bill introduced by the government, and if consensus still cannot be reached after consultations, the Chief Executive may dissolve the Legislative Council. On the other hand, the Basic Law provides that the government of the Region must abide by the law and be accountable to the Legislative Council. It must implement laws passed by the Legislative Council and already in force, present regular policy addresses to the Council, answer questions raised by members of the Council and obtain approval from the Council for taxation and public expenditure. The Chief Executive must consult the Executive Council before making important policy decisions, introducing bills to the Legislative Council, enacting subordinate legislation, or dissolving the Legislative Council. The Basic Law also stipulates that if the bill returned by the Chief Executive is passed again by the Legislative Council with at least a two-thirds majority, the Chief Executive must sign and promulgate it within one month, unless he or she dissolves the Legislative Council. If the newly elected Legislative Council, after the old one has been dissolved, again passes by a two-thirds majority the original bill in dispute, or it still refuses to pass the original budget or any other important bill introduced by the government, the Chief Executive must resign. If the Chief Executive is found to have committed a serious breach of law or dereliction of duty and if he or she still refuses to resign, the Legislative Council may pass a motion of impeachment through the specified procedures and refer it to the Central People's Government for decision. The provisions mentioned above embody the relationship of regulation and co-ordination between the executive authorities and the legislature.

(2) The method for the selection of the Chief Executive. The draft stipulates that the Chief Executive shall be selected by election or through consultations and be appointed by the Central People's Government. The method for selecting the Chief Executive shall be worked out in the light of the actual situation in Hong Kong and applied in a gradual and orderly way. The ultimate goal is the selection of the Chief Executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures. Based on these provisions, Annex I provides specific rules on selecting the Chief Executive. In the ten years between 1997 and 2007, the Chief

Executive will be elected by a broadly representative election committee. If there is need to amend this method of election after that period, such amendments must be made with the endorsement of a two-thirds majority of all the members of the legislative Council and the consent of the Chief Executive, and they must be submitted to the Standing Committee of the National People's Congress for approval. The method for selecting the Chief Executive is provided in an annex to make it more amenable to revision when necessary.

(3) The method for forming the Legislative Council and its procedures for voting on bills and motions. According to the draft Basic Law, the Legislative Council will be constituted by election. The method for forming the Legislative Council will be worked out in the light of the actual situation in Hong Kong and applied in a gradual and orderly way. The ultimate goal is the election of all the members of the Legislative Council by universal suffrage. In accordance with these provisions, Annex II provides specific rules on formation of the Legislative Council. The first and second Legislative Council will be formed by members elected by functional constituencies, by the Election Committee or by geographical constituencies through direct elections. During the first 10 years after the Special Administrative Region is established, the number of seats in the Legislative Council for members elected by geographical constituencies through direct elections will be increased with each passing council, and the number of seats elected by the Election Committee will be gradually reduced. When the third Legislative Council is formed, members elected by functional constituencies and geographical constituencies through direct elections will each share half the seats of the Legislative Council. These rules accord with the principle of developing the election system in a gradual and orderly way. Annex II also stipulates that different voting procedures shall be adopted by the Legislative Council in handling bills introduced by the government and motions and bills introduced by individual members of the Legislative Council. The passage of bills introduced by the government requires a simple majority vote of the members of the Legislative Council present. The passage of motions, bills or amendments to government bills introduced by individual members of the Legislative Council requires at least a simple majority vote by each of the two groups of members present, i.e., members returned by functional constituencies and those returned by geographical constituencies through

direct elections and by the Election Committee. Such provisions take into consideration the interests of all social strata and will prevent endless debates over government bills, thus helping the government work with efficiency. Ten years after the establishment of the Special Administrative Region, if there is a need to improve the method for forming the Legislative Council and its procedures for voting on bills and motions, such improvements shall be made with the endorsement of a two-thirds majority of all the members of the Legislative Council and the consent of the Chief Executive, and they must be reported to the Standing Committee of the National People's Congress for the record. The method for forming the Legislative Council and the Council's procedures for voting on bills and motions are provided in an annex because it is more amenable to revision when necessary.

(4) Qualifications for the Chief Executive of the Hong Kong Special Administrative Region, members of the Executive Council, the President of the Legislative Council, principal government officials, the chief justice of the Court of Final Appeal and the chief judges of the High Court, as well as Hong Kong members of the Basic Law Committee. Relevant provisions in the draft Basic Law stipulate that these posts must be held by Chinese citizens who are permanent residents of the Region with no right of abode in any foreign country. This helps define state sovereignty and reflects the principle of managing Hong Kong by the Hong Kong people. Only in this way can those maintaining the posts mentioned above hold themselves responsible to the State, the Region and the residents of Hong Kong. Based on the same considerations, relevant articles stipulate that the Region's Legislative Council must be composed of Chinese citizens who are permanent residents of the Region with no right of abode in any foreign country. However, in view of Hong Kong's specific conditions, permanent residents of the Region who are not of Chinese nationality or who have the right of abode in foreign countries may also be elected members of the Legislative Council of the Region, provided that the proportion of such members does not exceed 20 per cent of the total membership of the Council.

(5) The method for the formation of the first Government and the first Legislative Council of the Hong Kong Special Administrative Region. In line with the principles of state sovereignty and for the benefit

of smooth transition, the establishment of the Special Administrative Region will be presided over by a Preparatory Committee set up by the National People's Congress. Since preparations must be made before the establishment of the first Government and the first Legislative Council and since the Basic Law will not go into effect until July 1, 1997, the Drafting Committee has suggested that the National People's Congress make a special decision on the method for the formation of the first Government and Legislative Council and that the decision be made public together with the Basic Law. The Drafting Committee has therefore worked out a draft of the decision on behalf of the National People's Congress. According to this decision, the candidate for the first Chief Executive of the Hong Kong Special Administrative Region will be recommended by a selection committee composed entirely of Hong Kong residents and then referred to the Central People's Government for appointment. If the composition of the last Hong Kong Legislative Council before the establishment of the Special Administrative Region is in conformity with the provisions of the decision made by the National People's Congress on the method for the formation of the first Government and the first Legislative Council, those of its members who uphold the Basic Law and pledge allegiance to the Hong Kong Special Administrative Region and who meet the requirements set forth in the Basic Law may, upon confirmation by the Preparatory Committee, become members of the first Legislative Council of the Region. This arrangement is designed to ensure stability throughout the transition period and make the two governments dovetail without a hitch.

According to the decision, when assuming office, the Chief Executive, principal officials, members of the Executive Council and the Legislative Council, judges of the courts at all levels and other members of the judiciary must swear to uphold the Basic Law and swear allegiance to the Hong Kong Special Administrative Region of the People's Republic of China.

V. On Economy, Education, Science, Culture, Sports, Religion, Labour and Social Services

Chapter V of the Basic Law contains stipulations on the economic system and policies of the Hong Kong Special Administrative Region,

divided into eight fields of endeavour: public finance, monetary affairs, trade, industry, commerce, land leases, shipping and civil aviation. These stipulations are indispensable to ensuring the normal operation of Hong Kong's capitalist economic mechanism and maintaining its status as an international financial centre and free port. Concerning monetary affairs, for instance, the draft Basic Law stipulates that no foreign exchange control policies shall be applied in the Hong Kong Special Administrative Region and that markets for foreign exchange, gold, securities, futures and the like shall continue. The free flow of capital within, into and out of Region as well as the free operation of financial businesses and financial markets are safeguarded. It also stipulates that the Hong Kong dollar is the legal tender in the Region and shall be freely convertible and that the authority for its issuance shall be vested in the Government of the Hong Kong Special Administrative Region. As for foreign trade, the draft Basic Law stipulates that all investments from outside the Region shall be protected by law, and the free movement of goods, intangible assets and capital shall be safeguarded. Unless otherwise prescribed by law, no tariff shall be imposed. As a separate customs territory, the Region may, using the name "Hong Kong, China," participate in relevant international organizations and trade agreements (including preferential trade arrangements,) such as the General Agreement on Tariffs and Trade and arrangements regarding international trade in textiles. Export quotas, tariff preferences and other similar arrangements obtained or made by the Hong Kong Special Administrative Region shall be enjoyed exclusively by the Region. The draft Basic Law also stipulates that the Hong Kong Special Administrative Region shall strive to achieve a fiscal balance and avoid deficits in drawing up its budget. The Region may also enact laws on its own concerning the taxation system, using the previously pursued low tax policy as reference. The draft Basic Law also carries detailed stipulations concerning the major trades, land leases, shipping, civil aviation and the like.

Chapter VI of the draft Basic Law carries stipulations on the maintenance and development of Hong Kong's current systems and policies concerning education, science, culture, sports, religion, labour and social services. These stipulations involve the interests of Hong Kong residents in many aspects of public life and are important for social stability and development.

There are quite a number of articles concerning policies in Chapter V and VI of the draft Basic Law. The Chinese Government has undertaken, in the Sino-British Joint Declaration, to write its basic principles and policies on Hong Kong and their detailed explanations as given in Annex I of the Joint Declaration into Basic Law, and Hong Kong residents from all walks of life have a strong desire for the Basic Law to reflect and protect their interests. Therefore, it was decided in the end that these articles concerning policies should remain in the draft Basic Law, despite the differing opinions expressed over the brevity of articles during the drafting of the law.

Finally, I should like to explain a few points about the draft designs of the regional flag and regional emblem of the Hong Kong Special Administrative Region. The regional flag carries a design of five bauhinia petals, each with a star in the middle, on a red background. The red flag represents the motherland and the bauhinia represents Hong Kong. The design implies that Hong Kong is an inalienable part of China and prospers in the embrace of the motherland. The five stars on the flower symbolize the fact that all Hong Kong compatriots love their motherland, while the red and white colours embody the principle of "one country, two systems." The regional emblem is round and bears a design similar to the one on the flag, with five red stars on a white bauhinia against a red background, which also symbolizes the principle of "one country, two systems" by the use of red and white. The outer ring of the emblem carries the words "Hong Kong Special Administrative Region of the People's Republic of China" in Chinese, and "HONG KONG" in English.

Fellow Deputes,

I hereby present my explanations concerning "The Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (Draft)," its annexes and other relevant documents and concerning the draft designs of the regional flag and regional emblem of the Special Administrative Region, to the National People's Congress for examination.

Note:

* This is an English translation of the original instrument in Chinese and is published for information.

Instrument 9

* Decision of the National People's Congress on the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China

(Adopted at the Third Session of the Seventh National People's Congress on 4 April 1990)

The Third Session of the Seventh National People's Congress adopts the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, including Annex I: Method for the Selection of the Chief Executive of the Hong Kong Special Administrative Region, Annex II: Method for the Formation of the Legislative Council of the Hong Kong Special Administrative Region and Its Voting Procedures, Annex III: National Laws to be Applied in the Hong Kong Special Administrative Region, and the designs of the regional flag and regional emblem of the Hong Kong Special Administrative Region. Article 31 of the Constitution of the People's Republic of China provides: "The State may establish special administrative regions when necessary. The systems to be instituted in special administrative regions shall be prescribed by law enacted by the National People's Congress in the light of the specific conditions." The Basic Law of the Hong Kong Special Administrative Region is constitutional as it is enacted in accordance with the Constitution of the People's Republic of China and in the light of the specific conditions of Hong Kong. The systems, policies and laws to be instituted after the establishment of the Hong Kong Special Administrative Region shall be based on the Basic Law of the Hong Kong Special Administrative Region.

The Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China shall be put into effect as of July 1, 1997.

Note:

* This English translation text is reproduced from "The Laws of the People's Republic of China 1990-1992" compiled by the Legislative Affairs Commission of the Standing Committee of the National People's Congress of the People's Republic of China. It is for reference purposes and has no legislative effect.

* Decision of the National People's Congress on the Establishment of the Hong Kong Special Administrative Region

(Adopted at the Third Session of the Seventh National People's Congress on 4 April 1990)

In accordance with the provisions of Article 31 and sub-paragraph 13 of Article 62 of the Constitution of the People's Republic of China, the Third Session of the Seventh National People's Congress decides:

1. The Hong Kong Special Administrative Region is to be established on July 1, 1997.

**2. The area of the Hong Kong Special Administrative Region covers the Hong Kong Island, the Kowloon Peninsula, and the islands and adjacent waters under its jurisdiction. The map of the administrative division of the Hong Kong Special Administrative Region will be published by the State Council separately.

Note:

* This English translation text is reproduced from "The Laws of the People's Republic of China 1990-1992" compiled by the Legislative Affairs Commission of the Standing Committee of the National People's Congress of the People's Republic of China. It is for reference purposes and has no legislative effect.

** See Order of the State Council of the People's Republic of China No. 221 (see **Instrument 11**)

Instrument 11

*** Order of the State Council of the People's Republic of China No. 221**

It is hereby promulgated that in accordance with the Decision of the National People's Congress on the Establishment of the Hong Kong Special Administrative Region adopted at the Third Session of the Seventh National People's Congress on 4 April 1990, the map of the administrative division of the Hong Kong Special Administrative Region of the People's Republic of China was approved at the 56th Executive Meeting of the State Council on 7 May 1997.

Appendix: Description of the boundary of the administrative division of the Hong Kong Special Administrative Region of the People's Republic of China

LI Peng
Premier
1 July 1997

Appendix

Description of the Boundary of the Administrative Division of the Hong Kong Special Administrative Region of the People's Republic of China

The boundary comprises a land and sea sector.

I. The Land Sector

The land sector comprises three sections as follows:

(1) Sha Tau Kok Town

1. The boundary starts at the eastern corner of the base of the Sha Tau Kok pier ("Point 1", Latitude 22°32'37.21" North, Longitude 114°13'34.85" East). From there, it runs directly to the mouth of the ditch running along the eastern side of San Lau Street. It then follows the centre line of the ditch, as far as the point where that line meets the centre line of Chung Ying Street ("Point 2", Latitude 22°32'45.42" North, Longitude 114°13'32.40" East).

2. From Point 2, the boundary follows the centre line of Chung Ying Street as far as the point where that line meets the centre line of Bubu Street ("Point 3", Latitude 22°32'52.26" North, Longitude 114°13'36.91" East).

3. From Point 3, the boundary follows a straight line to the western tip of the base of the foundation of Sha Tau Kok River Bridge in the middle of the river ("Point 4", Latitude 22°32'52.83" North, Longitude 114°13'36.86" East).

(2) Sha Tau Kok Town to Pak Kung Au

From Point 4, the boundary runs upstream along the centre line of the Sha Tau Kok River and thence along the bottom line of the valley east of Pak Kung Au until it reaches the middle of the Pak Kung Au saddle point ("Point 5", Latitude 22°33'23.49" North, Longitude 114°12'24.25" East).

(3) Pak Kung Au to the Mouth of the Shenzhen River

The boundary runs from Point 5 along the bottom line of the main valley west of Pak Kung Au as far as the source of the Shenzhen River at Pak Kung Au. It continues along the centre line of the Shenzhen River to the mouth of the river at Shenzhen Bay (otherwise known as Deep Bay).

After the realignment of the Shenzhen River, the boundary will follow the new centre line of the river.

II. The Sea Sector

The sea sector comprises three sections as follows:

(1) Shenzhen Bay

From the mouth of the Shenzhen River, the boundary runs along the middle of the southern navigable channel as far as Beacon 84 (otherwise known as "B" Beacon) ("Point 6", Latitude 22°30'36.23" North, Longitude 113°59'42.20" East). From there, it follows straight lines in sequence through the following two points:

1. Beacon 83 (otherwise known as "A" Beacon) in Shenzhen Bay ("Point 7", Latitude 22°28'20.49" North, Longitude 113°56'52.10" East); and

2. "Point 8", (Latitude 22°25'43.7" North, Longitude 113°52'08.8" East), defined as the point where the line between Point 7 and Dongjiaozui at the southernmost tip of Neilingding Island intersects the meridian line of Longitude 113°52'08.8" East.

(2) Southern Sea Section

From Point 8, the boundary follows a series of straight lines sequentially through the following thirteen points:

1. The boundary first runs southwards along the meridian line of Longitude 113°52'08.8" East until it reaches Latitude 22°20' North ("Point

9”, Latitude 22˚20' North, Longitude 113˚52'08.8" East). The boundary runs thence in sequence to:

2. “Point 10” (Latitude 22˚16'23.2" North, Longitude 113˚50'50.6" East), defined as the point one nautical mile northwest of the most northerly point on the coastline of Tai O;

3. “Point 11” (Latitude 22˚16'03.8" North, Longitude 113˚50'20.4" East), defined as the point one nautical mile northwest of the most westerly point on the coastline of Tai O;

4. “Point 12” (Latitude 22˚14'21.4" North, Longitude 113˚49'35.0" East), defined as the point one nautical mile northwest of the tip of the protruding point on the Lantau coastline southwest of Kai Kung Shan;

5. “Point 13” (Latitude 22˚13'01.4" North, Longitude 113˚49'01.6" East), defined as the point one nautical mile west of the most westerly point on Kai Yet Kok off Lantau Island;

6. “Point 14” (Latitude 22˚11'01.9" North, Longitude 113˚49'56.6" East), defined as the point one nautical mile southwest of the most southwesterly point on the coastline at Fan Lau Kok on Lantau Island;

7. “Point 15” (Latitude 22˚08'33.1" North, Longitude 113˚53'47.6" East), defined as the mid-point of a straight line between the most southerly point on the coastline of Tai A Chau in the Soko Islands and the tip of the protruding point at Yinjiaozui on the northern coastline of Dazhizhou;

8. “Point 16” (Latitude 22˚08'12.2" North, Longitude 113˚55'20.6" East), defined as the point one nautical mile south of the most southerly point on the coastline of Tau Lo Chau in the Soko Islands;

9. “Point 17” (Latitude 22˚08'54.5" North, Longitude 113˚56'22.4" East), defined as the eastern point of intersection between the parallel of Latitude 22˚08'54.5" North and an arc sector of one nautical mile radius centred on the most southerly point on the coastline of Tau Lo Chau in the Soko Islands;

10. “Point 18” (Latitude 22˚08'54.5" North, Longitude 114˚14'09.6" East), defined as the western point of intersection between the parallel of Latitude 22˚08'54.5" North and an arc sector of one nautical mile radius centred on the most southwesterly point on the coastline of Mat Chau in the Po Toi Islands;

11. “Point 19” (Latitude 22˚08'18.8" North, Longitude 114˚15'18.6" East), defined as the point one nautical mile due south of Nam Kok Tsui on Po Toi Island;

12. “Point 20” (Latitude 22˚08'54.5" North, Longitude 114˚17'02.4" East), defined as the eastern point of intersection between the parallel of Latitude 22˚08'54.5" North and an arc sector of one nautical mile radius centred on the most southeasterly point at Tai Kok Tau on Po Toi Island;

13. “Point 21”, defined by the coordinates Latitude 22˚08'54.5" North, Longitude 114˚30'08.8" East.

(3) Mirs Bay

From Point 21, the boundary then runs in sequential straight lines through the following ten points, then back to Point 1:

1. “Point 22”, defined by the coordinates Latitude 22˚21'54.5" North, Longitude 114˚30'08.8" East;

2. “Point 23” (Latitude 22˚28'07.4" North, Longitude 114˚27'17.6" East), defined as the mid-point of a straight line between the tip of the protruding point on the coastline north of Daluwan and the beacon on Shek Ngau Chau;

3. “Point 24” (Latitude 22˚32'41.9" North, Longitude 114˚27'18.5" East), defined as the mid-point of a straight line between the tip of the protruding point on the coastline southwest of Shuitousha and Kang Lau Shek on Ping Chau Island;

4. “Point 25” (Latitude 22˚33'43.2" North, Longitude 114˚26'02.3" East), defined as the mid-point of a straight line between Chengtoujiao and Chau Mei Kok on Ping Chau Island;

5. “Point 26” (Latitude 22˚34'06.0" North, Longitude 114˚19'58.7" East), defined as the mid-point of a straight line between the tip of the protruding point on the coastline at Beizaijiao and the most northerly point on the coastline of Round Island;

6. “Point 27” (Latitude 22˚34'00.0" North, Longitude 114˚18'32.7" East), defined as the mid-point of a straight line between the tip of the protruding point on the coastline at Zhengjiaozui and the most easterly point on the coastline at Kai Kung Tau on Crooked Island;

7. “Point 28” (Latitude 22˚33'55.8" North, Longitude 114˚16'33.7" East), defined as the mid-point of a straight line between the tip of the protruding point on the coastline at Tangyuanchong and the most northerly point on the coastline of Crooked Island;

8. “Point 29” (Latitude 22˚33'20.6" North, Longitude 114˚14'55.2" East), defined as the mid-point of a straight line between the point where the stream south of Enshang meets the sea and Cheung Pai Tau;

9. “Point 30” (Latitude 22˚33'02.6" North, Longitude 114˚14'13.4" East), defined as the mid-point of a straight line between the point where the stream at Guanluxia meets the sea and Sam Kuk Tsui; and

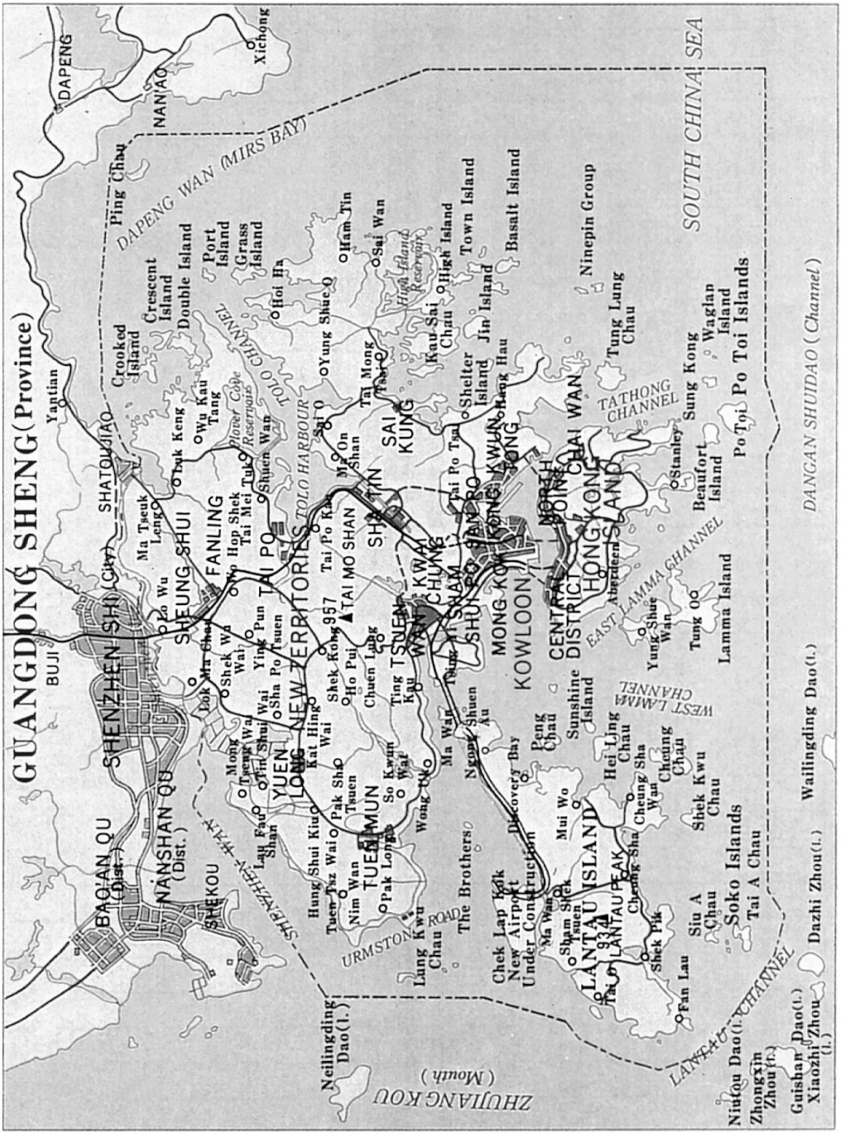
10. “Point 31” (Latitude 22˚32'37.2" North, Longitude 114˚14'01.1" East), defined as the mid-point of a straight line running due east from Point 1 to the opposite shoreline.

Note: The above geographical co-ordinates are represented by WGS84.

Note:

* This English translation text is prepared by Security Bureau, Government of the Hong Kong Special Administrative Region. It is for reference purposes and has no legislative effect.

THE MAP OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION OF THE PEOPLE'S REPUBLIC OF CHINA



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Instrument 12

* Decision of the National People's Congress on the Method for the Formation of the First Government and the First Legislative Council of the Hong Kong Special Administrative Region

(Adopted at the Third Session of the Seventh National People's Congress on 4 April 1990)

1. The first Government and the first Legislative Council of the Hong Kong Special Administrative Region shall be formed in accordance with the principles of State sovereignty and smooth transition.

2. Within the year 1996, the National People's Congress shall establish a Preparatory Committee for the Hong Kong Special Administrative Region, which shall be responsible for preparing the establishment of the Hong Kong Special Administrative Region and shall prescribe the specific method for the formation of the first Government and the first Legislative Council in accordance with this Decision. The Preparatory Committee shall be composed of mainland members and of Hong Kong members who shall constitute not less than 50 per cent of its membership. Its chairman and members shall be appointed by the Standing Committee of the National People's Congress.

3. The Preparatory Committee for the Hong Kong Special Administrative Region shall be responsible for preparing the establishment of the Selection Committee for the First Government of the Hong Kong Special Administrative Region (hereinafter referred to as the Selection Committee).

The Selection Committee shall be composed entirely of permanent residents of Hong Kong and must be broadly representative. It shall include Hong Kong deputies to the National People's Congress, representatives of Hong Kong members of the National Committee of the Chinese People's Political Consultative Conference, persons with practical experience who have served in Hong Kong's executive, legislative and advisory organs prior to the establishment of the Hong Kong Special

Administrative Region, and persons representative of various strata and sectors of society.

The Selection Committee shall be composed of 400 members in the following proportions:

Industrial, commercial and financial sectors	25 per cent
The professions	25 per cent
Labour, grass-roots, religious and other sectors	25 per cent
Former political figures, Hong Kong deputies to the National People's Congress, and representatives of Hong Kong members of the National Committee of the Chinese People's Political Consultative Conference	25 per cent

4. The Selection Committee shall recommend the candidate for the first Chief Executive through local consultations or through nomination and election after consultations, and report the recommended candidate to the Central People's Government for appointment. The term of office of the first Chief Executive shall be the same as the regular term.

5. The Chief Executive of the Hong Kong Special Administrative Region shall be responsible for preparing the formation of the first Government of the Region in accordance with the Basic Law of the Hong Kong Special Administrative Region.

6. The first Legislative Council of the Hong Kong Special Administrative Region shall be composed of 60 members, with 20 members returned by geographical constituencies through direct elections, 10 members returned by an election committee, and 30 members returned by functional constituencies. If the composition of the last Hong Kong Legislative Council before the establishment of the Hong Kong Special Administrative Region is in conformity with the relevant provisions of this Decision and the Basic Law of the Hong Kong Special Administrative Region, those of its members who uphold the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China and pledge allegiance to the Hong Kong Special Administrative Region of the People's Republic of China, and who meet

the requirements set forth in the Basic Law of the Region may, upon confirmation by the Preparatory Committee, become members of the first Legislative Council of the Region.

The term of office of members of the first Legislative Council of the Hong Kong Special Administrative Region shall be two years.

Note:

* This English translation text is reproduced from "The Laws of the People's Republic of China 1990-1992" compiled by the Legislative Affairs Commission of the Standing Committee of the National People's Congress of the People's Republic of China. It is for reference purposes and has no legislative effect.

Instrument 13

*** Decision of the National People's Congress Approving the Proposal by the Drafting Committee for the Basic Law of the Hong Kong Special Administrative Region on the Establishment of the Committee for the Basic Law of the Hong Kong Special Administrative Region under the Standing Committee of the National People's Congress**

(Adopted at the Third Session of the Seventh National People's Congress on 4 April 1990)

The Third Session of the Seventh National People's Congress decides:

1. to approve the proposal by the Drafting Committee for the Basic Law of the Hong Kong Special Administrative Region on the Establishment of the Committee for the Basic Law of the Hong Kong Special Administrative Region under the Standing Committee of the National People's Congress; and

2. to establish the Committee for the Basic Law of the Hong Kong Special Administrative Region under the Standing Committee of the National People's Congress when the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China is put into effect.

Appendix

Proposal by the Drafting Committee for the Basic Law of the Hong Kong Special Administrative Region on the Establishment of the Committee for the Basic Law of the Hong Kong Special Administrative Region Under the Standing Committee of the National People's Congress

1. Name: The Committee for the Basic Law of the Hong Kong Special Administrative Region under the Standing Committee of the National People's Congress.

2. Affiliation: To be a working committee under the Standing Committee of the National People's Congress.

3. Function: To study questions arising from the implementation of Articles 17, 18, 158 and 159 of the Basic Law of the Hong Kong Special Administrative Region and submit its views thereon to the Standing Committee of the National People's Congress.

4. Composition: Twelve members, six from the mainland and six from Hong Kong, including persons from the legal profession, appointed by the Standing Committee of the National People's Congress for a term of office of five years. Hong Kong members shall be Chinese citizens who are permanent residents of the Hong Kong Special Administrative Region with no right of abode in any foreign country and shall be nominated jointly by the Chief Executive, President of the Legislative Council and Chief Justice of the Court of Final Appeal of the Region for appointment by the Standing Committee of the National People's Congress.

Note:

* This English translation text is reproduced from "The Laws of the People's Republic of China 1990-1992" compiled by the Legislative Affairs Commission of the Standing Committee of the National People's Congress of the People's Republic of China. It is for reference purposes and has no legislative effect.

* Decision of the Standing Committee of the National People's Congress on the English Text of the Basic Law of the Hong Kong Speicial Administrative Region of the People's Republic of China

(Adopted on 28 June 1990)

The 14th Meeting of the Standing Committee of the Seventh National People's Congress decides: the English translation of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, examined and approved under the aegis of the Law Committee of the National People's Congress, shall be the official English text and shall be equally authentic as the Chinese text. In case of any discrepancy in the meaning of wording between the English text and the Chinese text, the Chinese text shall prevail.

Note:

* This English translation text is reproduced from "The Laws of the People's Republic of China 1990-1992" compiled by the Legislative Affairs Commission of the Standing Committee of the National People's Congress of the People's Republic of China. It is for reference purposes and has no legislative effect.

*** Explanations of Some Questions by the Standing Committee of the National People's Congress Concerning the Implementation of the Nationality Law of the People's Republic of China in the Hong Kong Special Administrative Region**

(Adopted at the Nineteenth Session of the Standing Committee of the Eighth National People's Congress on 15 May 1996)

According to Article 18 of and Annex III to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, the Nationality Law of the People's Republic of China shall be applied in the Hong Kong Special Administrative Region from 1 July 1997. Taking account of the historical background and the existing circumstances of Hong Kong, the Standing Committee gives the following explanations concerning the implementation in the Hong Kong Special Administrative Region of the Nationality Law of the People's Republic of China-

1. Where a Hong Kong resident is of Chinese descent and was born in the Chinese territories (including Hong Kong), or where a person satisfies the criteria laid down in the Nationality Law of the People's Republic of China for having Chinese nationality, he is a Chinese national.

2. All Hong Kong Chinese compatriots are Chinese nationals, whether or not they are holders of the "British Dependent Territories Citizens passport" or "British Nationals (Overseas) passport". With effect from 1 July 1997, Chinese nationals mentioned above may, for the purpose of travelling to other countries and territories, continue to use the valid travel documents issued by the Government of the United Kingdom. However, they shall not be entitled to British consular protection in the Hong Kong Special Administrative Region and other parts of the People's Republic of China on account of their holding the above mentioned British travel documents.

3. According to the Nationality Law of the People's Republic of China, the British Citizenship acquired by Chinese nationals in Hong Kong through the "British Nationality Selection Scheme" will not be recognised. They are still Chinese nationals and will not be entitled to British consular protection in the Hong Kong Special Administrative Region and other parts of the People's Republic of China.

4. Chinese nationals of the Hong Kong Special Administrative Region with right of abode in foreign countries may, for the purpose of travelling to other countries and territories, use the relevant documents issued by the foreign governments. However, they will not be entitled to consular protection in the Hong Kong Special Administrative Region and other parts of the People's Republic of China on account of their holding the above mentioned documents.

5. If there is a change in the nationality of a Chinese national of the Hong Kong Special Administrative Region, he may, with valid documents in support, make a declaration at the authority of the Hong Kong Special Administrative Region responsible for nationality applications.

6. The Government of the Hong Kong Special Administrative Region is authorised to designate its Immigration Department as the authority of the Hong Kong Special Administrative Region responsible for nationality applications. The Immigration Department of the Hong Kong Special Administrative Region shall handle all nationality applications in accordance with the Nationality Law of the People's Republic of China and the foregoing provisions.

Note:

* This English translation text is prepared by the Department of Justice, Government of the Hong Kong Special Administrative Region. It is for reference purposes and has no legislative effect.

*** Decision of the Standing Committee of the National People's Congress on Treatment of the Laws Previously in Force in Hong Kong in Accordance with Article 160 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China**

(Adopted at the Twenty Fourth Session of the Standing Committee of the Eighth National People's Congress on 23 February 1997)

Article 160 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (hereinafter referred to as "the Basic Law") stipulates:

"Upon the establishment of the Hong Kong Special Administrative Region, the laws previously in force in Hong Kong shall be adopted as laws of the Region except for those which the Standing Committee of the National People's Congress declares to be in contravention of this Law. If any laws are later discovered to be in contravention of this Law, they shall be amended or cease to have force in accordance with the procedure as prescribed by this Law."

Article 8 stipulates:

"The laws previously in force in Hong Kong, that is, the common law, rules of equity, ordinances, subordinate legislation and customary law shall be maintained, except for any that contravene this Law, and subject to any amendment by the legislature of the Hong Kong Special Administrative Region."

In accordance with the above provisions, the Standing Committee of the Eighth National People's Congress examined the proposals made by the Preparatory Committee of the Hong Kong Special Administrative Region on treatment of issues relating to the laws previously in force in Hong Kong, and decides at its Twenty Fourth Session as follows:

1. The laws previously in force in Hong Kong, which include the common law, rules of equity, ordinances, subordinate legislation and customary law, except for those which are in contravention of the Basic Law, are adopted as the laws of the Hong Kong Special Administrative Region.

2. Such of the ordinances and subordinate legislation previously in force in Hong Kong as set out in Annex 1 to this Decision are in contravention of the Basic Law and are not adopted as the laws of the Hong Kong Special Administrative Region.

3. Such provisions of the ordinances and subordinate legislation previously in force in Hong Kong as set out in Annex 2 to this Decision are in contravention of the Basic Law and those provisions are not adopted as the laws of the Hong Kong Special Administrative Region.

4. Such of the laws previously in force in Hong Kong which have been adopted as the laws of the Hong Kong Special Administrative Region shall, as from 1 July 1997, be applied subject to such modifications, adaptations, limitations or exceptions as are necessary so as to bring them into conformity with the status of Hong Kong after resumption by the People's Republic of China of the exercise of sovereignty over Hong Kong as well as to be in conformity with the relevant provisions of the Basic Law. For example, the New Territories Land (Exemption) Ordinance should conform with the above principles in its application.

Apart from conforming with the above principles, the following shall be observed, that is to say, in the ordinances and subordinate legislation previously in force:

(1) laws relating to foreign affairs in respect of the Hong Kong Special Administrative Region which are inconsistent with the national laws applied in the Hong Kong Special Administrative Region shall be subject to the national laws and shall be consistent with the international rights and obligations of the Central People's Government;

(2) provisions conferring privileges on the United Kingdom or other Commonwealth countries or territories, other than provisions relating to reciprocal arrangements between Hong Kong and the United Kingdom or other Commonwealth countries or territories, are not retained;

(3) provisions relating to the rights, exemptions and obligations of military forces stationed in Hong Kong by the United Kingdom are retained subject to the provisions of the Basic Law and the Law of the People's Republic of China on the Garrisoning of the Hong Kong Special Administrative Region of the People's Republic of China, and shall apply to the military forces stationed in the Hong Kong Special Administrative Region by the Central People's Government of the People's Republic of China;

(4) provisions relating to the superior legal status of the English language as compared with the Chinese language shall be construed as providing that both the Chinese and English languages are to be official languages;

(5) provisions applying any English law may continue to be applicable by reference thereto as a transitional arrangement pending their amendment by the Hong Kong Special Administrative Region, provided that they are not prejudicial to the sovereignty of the People's Republic of China and do not contravene the provisions of the Basic Law.

5. Subject to the provisions of paragraph 4, the names or expressions appearing in the laws previously in force in Hong Kong that are adopted as the laws of the Hong Kong Special Administrative Region shall, unless the context otherwise requires, be construed or applied in accordance with the principles of substitution provided for in Annex 3 to this Decision.

6. If any laws previously in force in Hong Kong which have been adopted as the laws of the Hong Kong Special Administrative Region are later discovered to be in contravention of the Basic Law, they shall be amended or shall cease to have force in accordance with the procedure as prescribed by the Basic Law.

Annex 1

The following ordinances and subordinate legislation previously in force in Hong Kong, which contravene the Basic Law, are not adopted as the laws of the Hong Kong Special Administrative Region:

1. Trustees (Hong Kong Government Securities) Ordinance (Cap 77, Laws of Hong Kong);

2. Application of English Law Ordinance (Cap 88, Laws of Hong Kong);

3. Foreign Marriage Ordinance (Cap 180, Laws of Hong Kong);

4. Chinese Extradition Ordinance (Cap 235, Laws of Hong Kong);

5. Colony Armorial Bearings (Protection) Ordinance (Cap 315, Laws of Hong Kong);

6. Secretary of State for Defence (Succession to Property) Ordinance (Cap 193, Laws of Hong Kong);

7. Royal Hong Kong Regiment Ordinance (Cap 199, Laws of Hong Kong);

8. Compulsory Service Ordinance (Cap 246, Laws of Hong Kong);

9. Army and Royal Air Force Legal Services Ordinance (Cap 286, Laws of Hong Kong);

10. British Nationality (Miscellaneous Provisions) Ordinance (Cap 186, Laws of Hong Kong);

11. British Nationality Act 1981 (Consequential Amendments) Ordinance (Cap 373, Laws of Hong Kong);

12. Electoral Provisions Ordinance (Cap 367, Laws of Hong Kong);

13. Legislative Council (Electoral Provisions) Ordinance (Cap 381, Laws of Hong Kong);

14. Boundary and Election Commission Ordinance (Cap 432, Laws of Hong Kong).

Annex 2

The following provisions in ordinances and subordinate legislation previously in force in Hong Kong, which are in contravention of the Basic Law, are not adopted as the laws of the Hong Kong Special Administrative Region:

1. the definition of "Hong Kong permanent resident" in section 2 of the Immigration Ordinance (Cap 115, Laws of Hong Kong) and the provisions relating to "Hong Kong permanent residents" in Schedule 1 to that Ordinance;

2. any provision giving effect to the British Nationality Act as applied in Hong Kong;

3. provisions relating to election in the Urban Council Ordinance (Cap 101, Laws of Hong Kong);

4. provisions relating to election in the Regional Council Ordinance (Cap 385, Laws of Hong Kong);

5. provisions relating to election in the District Boards Ordinance (Cap 366, Laws of Hong Kong);

6. the Urban Council, Regional Council and District Board Election Expenses Order (sub. leg. A) and the Resolution of the Legislative Council (sub. leg. C) made under the Corrupt and Illegal Practices Ordinance (Cap 288, Laws of Hong Kong);

7. provisions relating to the interpretation and application of the Ordinance in section 2(3), the effect on pre-existing legislation in section 3 and the interpretation of subsequent legislation in

section 4 of the Hong Kong Bill of Rights Ordinance (Cap 383, Laws of Hong Kong);

8. provisions relating to the overriding status of the Personal Data (Privacy) Ordinance (Cap. 486, Laws of Hong Kong) in section 3(2) of that Ordinance;

9. major amendments to the Societies Ordinance (Cap 151, Laws of Hong Kong) since 17 July 1992;

10. major amendments to the Public Order Ordinance (Cap 245, Laws of Hong Kong) since 27 July 1995.

Annex 3

Names or expressions in the laws previously in force in Hong Kong that are adopted as the laws of the Hong Kong Special Administrative Region shall generally be construed or applied in accordance with the following principles of substitution:

1. In the case of any provision in which any reference is made to "Her Majesty", "the Crown", "the British Government" or "the Secretary of State" or to a similar name or expression, where the content of the provision relates to title to land in Hong Kong or involves affairs provided for in the Basic Law for which the Central People's Government is responsible or involves the relationship between the Central People's Government and the Hong Kong Special Administrative Region, the name or expression shall be construed as the Central People's Government or other competent authorities of the People's Republic of China. In other cases, the name or expression shall be construed as the Government of the Hong Kong Special Administrative Region.

2. In the case of any provision in which any reference is made to "Her Majesty in Council" or "the Privy Council", where the content of the provision relates to appellate jurisdiction, the name or expression shall be construed as the Court of Final

Appeal of the Hong Kong Special Administrative Region. In other cases, the name or expression shall be dealt with in accordance with the provisions of paragraph 1 hereof.

3. In the case of a Government agency or a semi-official agency bearing a name with the word "Royal", the word "Royal" shall be removed from its name and the agency shall be construed as the corresponding agency of the Hong Kong Special Administrative Region.

4. Any reference to "the Colony" shall be construed as a reference to the Hong Kong Special Administrative Region and any description of the territories of Hong Kong shall be construed and applied by reference to the map of the administrative division of the Hong Kong Special Administrative Region published by the State Council.

5. Any reference to such name or expression as "the Supreme Court" or "the High Court" shall be construed respectively as a reference to the High Court or the Court of First Instance of the High Court.

6. Any reference to such name or expression as "the Governor", "the Governor in Council", "the Chief Secretary", "the Attorney General", "the Chief Justice", "the Secretary for Home Affairs", "the Secretary for Constitutional Affairs", "the Commissioner of Customs and Excise" and "Justice" shall be construed respectively as a reference to the Chief Executive of the Hong Kong Special Administrative Region, the Chief Executive in Council, the Administrative Secretary, the Secretary for Justice, the Chief Justice of the Court of Final Appeal or Chief Judge of the High Court, the Secretary for Home Affairs, the Secretary for Constitutional Affairs, the Commissioner of Customs and Excise or Judge of the High Court.

7. Any reference in the Chinese text of any law previously in force in Hong Kong to such name or expression as the Legislative Council, the Judiciary or the Executive Authorities or the

officers of those bodies shall be construed and applied in accordance with the relevant provisions of the Basic Law.

8. In the case of any provision in which any reference is made to "the People's Republic of China" or "China" or to a similar name or expression, such reference shall be construed as a reference to the People's Republic of China as including Taiwan, Hong Kong and Macau; and in the case of any provision in which any reference is made to such name or expression as the Mainland, Taiwan, Hong Kong or Macau, whether separately or concurrently, such reference shall be construed respectively as a reference to the Mainland, Taiwan, Hong Kong or Macau, as a part of the People's Republic of China.

9. In the case of any provision in which any reference is made to "foreign state" or "foreign country" or to a similar term or expression, such reference shall be construed as a reference to any state, country or territory other than the People's Republic of China, or as a reference to "any place other than the Hong Kong Special Administrative Region", as the context of the relevant law or provision requires; and in the case of any provision in which any reference is made to "alien" or to a similar term or expression, such reference shall be construed as a reference to a person other than a citizen of the People's Republic of China.

10. Any reference in any provision to "nothing in this Ordinance shall affect or be deemed to affect the rights of Her Majesty the Queen, Her heirs or successors" shall be construed as a reference to "nothing in this Ordinance shall affect or be deemed to affect the rights of the Central People's Government or the Government of the Hong Kong Special Administrative Region under the Basic law or other laws".

Note:

* This English translation text is prepared by the Department of Justice, Government of the Hong Kong Special Administrative Region. It is for reference purposes and has no legislative effect.

* The Interpretation by the Standing Committee of the National People's Congress of Articles 22(4) and 24(2)(3) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China

(Adopted at the Tenth Session of the Standing Committee of the Ninth National People's Congress on 26 June 1999)

The Standing Committee of the Ninth National People's Congress examined at its Tenth Session the "Motion Regarding the Request for an Interpretation of Articles 22(4) and 24(2)(3) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China" submitted by the State Council. The motion of the State Council was submitted upon the report furnished by the Chief Executive of the Hong Kong Special Administrative Region under the relevant provisions of Articles 43 and 48(2) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China. The issue raised in the Motion concerns the interpretation of the relevant provisions of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China by the Court of Final Appeal of the Hong Kong Special Administrative Region in its judgment dated 29 January 1999. Those relevant provisions concern affairs which are the responsibility of the Central People's Government and concern the relationship between the Central Authorities and the Hong Kong Special Administrative Region. Before making its judgment, the Court of Final Appeal had not sought an interpretation of the Standing Committee of the National People's Congress in compliance with the requirement of Article 158(3) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China. Moreover, the interpretation of the Court of Final Appeal is not consistent with the legislative intent. Therefore, having consulted the Committee for the Basic Law of the Hong Kong Special Administrative Region under the Standing Committee of the National People's Congress, the Standing Committee of the National People's Congress has decided to make, under the provisions of Article 67(4) of the Constitution of the People's Republic of China and Article 158(1) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, an interpretation of the provisions of

Articles 22(4) and 24(2)(3) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China as follows:

1. The provisions of Article 22(4) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China regarding "For entry into the Hong Kong Special Administrative Region, people from other parts of China must apply for approval" mean as follows: People from all provinces, autonomous regions, or municipalities directly under the Central Government, including those persons of Chinese nationality born outside Hong Kong of Hong Kong permanent residents, who wish to enter the Hong Kong Special Administrative Region for whatever reason, must apply to the relevant authorities of their residential districts for approval in accordance with the relevant national laws and administrative regulations, and must hold valid documents issued by the relevant authorities before they can enter the Hong Kong Special Administrative Region. It is unlawful for people from all provinces, autonomous regions, or municipalities directly under the Central Government, including persons of Chinese nationality born outside Hong Kong of Hong Kong permanent residents, to enter the Hong Kong Special Administrative Region without complying with the appropriate approval procedure prescribed by the relevant national laws and administrative regulations.

2. It is stipulated in the first three categories of Article 24(2) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China that the "permanent residents of the Hong Kong Special Administrative Region shall be:

(1) Chinese citizens born in Hong Kong before or after the establishment of the Hong Kong Special Administrative Region;

(2) Chinese citizens who have ordinarily resided in Hong Kong for a continuous period of not less than seven years before or after the establishment of the Hong Kong Special Administrative Region;

(3) Persons of Chinese nationality born outside Hong Kong of those residents listed in categories (1) and (2);".

The provisions of category (3) regarding the "persons of Chinese nationality born outside Hong Kong of those residents listed in categories (1) and (2)" mean both parents of such persons, whether born before or after the establishment of the Hong Kong Special Administrative Region, or either of such parents must have fulfilled the condition prescribed by category (1) or (2) of Article 24(2) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China at the time of their birth. The legislative intent as stated by this Interpretation, together with the legislative intent of all other categories of Article 24(2) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, have been reflected in the "Opinions on the Implementation of Article 24(2) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China" adopted at the Fourth Plenary Meeting of the Preparatory Committee for the Hong Kong Special Administrative Region of the National People's Congress on 10 August 1996.

As from the promulgation of this Interpretation, the courts of the Hong Kong Special Administrative Region, when referring to the relevant provisions of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, shall adhere to this Interpretation. This Interpretation does not affect the right of abode in the Hong Kong Special Administrative Region which has been acquired under the judgment of the Court of Final Appeal on the relevant cases dated 29 January 1999 by the parties concerned in the relevant legal proceedings. Other than that, the question whether any other person fulfils the conditions prescribed by Article 24(2)(3) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China shall be determined by reference to this Interpretation.

Note:

* This is an English translation of the original instrument in Chinese, and is published for information.

*** The Interpretation by the Standing Committee of the National People's Congress of Article 7 of Annex I and Article III of Annex II to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China**

(Adopted at the Eighth Session of the Standing Committee of the Tenth National People's Congress on 6 April 2004.)

The Standing Committee of the Tenth National People's Congress examined at its Eighth Session the motion regarding the request for examination of "The Draft Interpretation of Article 7 of Annex I and Article III of Annex II to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China" submitted by the Council of Chairmen. Having consulted the Committee for the Basic Law of the Hong Kong Special Administrative Region under the Standing Committee of the National People's Congress, the Standing Committee of the National People's Congress has decided to make, under the provisions of Article 67(4) of the Constitution of the People's Republic of China and Article 158(1) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, an interpretation of the provisions of Article 7 of Annex I "Method for the Selection of the Chief Executive of the Hong Kong Special Administrative Region" to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China regarding "If there is a need to amend the method for selecting the Chief Executives for the terms subsequent to the year 2007, such amendments must be made with the endorsement of a two-thirds majority of all the members of the Legislative Council and the consent of the Chief Executive, and they shall be reported to the Standing Committee of the National People's Congress for approval" and the provisions of Article III of Annex II "Method for the Formation of the Legislative Council of the Hong Kong Special Administrative Region and Its Voting Procedures" regarding "With regard to the method for forming the Legislative Council of the Hong Kong Special Administrative Region and its procedures for voting on bills and motions after 2007, if there is a need to amend the provisions of this Annex, such amendments must be made with the endorsement of a two-

thirds majority of all the members of the Council and the consent of the Chief Executive, and they shall be reported to the Standing Committee of the National People's Congress for the record" as follows:

1. The phrases "subsequent to the year 2007" and "after 2007" stipulated in the two above-mentioned Annexes include the year 2007.

2. The provisions in the two above-mentioned Annexes that "if there is a need" to amend the method for selecting the Chief Executives for the terms subsequent to the year 2007 or the method for forming the Legislative Council and its procedures for voting on bills and motions after 2007 mean they may be amended or remain unamended.

3. The provisions in the two above-mentioned Annexes that any amendment must be made with the endorsement of a two-thirds majority of all the members of the Legislative Council and the consent of the Chief Executive and shall be reported to the Standing Committee of the National People's Congress for approval or for the record mean the requisite legislative process through which the method for selecting the Chief Executive and the method for forming the Legislative Council and its procedures for voting on bills and motions are amended. Such an amendment may take effect only if it has gone through the said process, including the approval or recording ultimately given or made by the Standing Committee of the National People's Congress in accordance with law. The Chief Executive of the Hong Kong Special Administrative Region shall make a report to the Standing Committee of the National People's Congress as regards whether there is a need to make an amendment; and the Standing Committee of the National People's Congress shall, in accordance with the provisions of Articles 45 and 68 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, make a determination in the light of the actual situation in the Hong Kong Special Administrative Region and in accordance with the principle of gradual and orderly progress. The bills on the amendments to the method for selecting the Chief Executive and the method for forming the Legislative Council and its procedures for voting on bills and motions and the proposed amendments to such bills shall be introduced by the Government of the Hong Kong Special Administrative Region into the Legislative Council.

4. If no amendment is made to the method for selecting the Chief Executive, the method for forming the Legislative Council and its procedures for voting on bills and motions as stipulated in the two above-mentioned Annexes, the provisions relating to the method for selecting the Chief Executive in Annex I will still be applicable to the method for selecting the Chief Executive, and the provisions relating to the method for forming the third term of the Legislative Council in Annex II and the provisions relating to its procedures for voting on bills and motions in Annex II will still be applicable to the method for forming the Legislative Council and its procedures for voting on bills and motions.

This Interpretation is hereby proclaimed.

Note:

* This English translation text is prepared by the Department of Justice, Government of the Hong Kong Special Administrative Region. It is for reference purposes and has no legislative effect.

*** Decision of the Standing Committee of the National People's Congress on Issues Relating to the Methods for Selecting the Chief Executive of the Hong Kong Special Administrative Region in the Year 2007 and for Forming the Legislative Council of the Hong Kong Special Administrative Region in the Year 2008**

(Adopted at the Ninth Session of the Standing Committee of the Tenth National People's Congress on 26 April 2004.)

The Standing Committee of the Tenth National People's Congress examined at its Ninth Session the "Report on whether there is a need to amend the methods for selecting the Chief Executive of the Hong Kong Special Administrative Region in 2007 and for forming the Legislative Council of the Hong Kong Special Administrative Region in 2008" submitted by Tung Chee-hwa, the Chief Executive of the Hong Kong Special Administrative Region, on 15 April 2004 and, before the Session, had consulted the Hong Kong deputies to the National People's Congress, the Hong Kong members of the National Committee of the Chinese People's Political Consultative Conference, different sectors of Hong Kong, the Hong Kong members of the Committee for the Basic Law of the Hong Kong Special Administrative Region under the Standing Committee of the National People's Congress, and the Constitutional Development Task Force of the Government of the Hong Kong Special Administrative Region, and had also sought the views of the Hong Kong and Macao Affairs Office of the State Council. The Standing Committee of the National People's Congress was, in the course of the examination, fully aware of the recent concerns of the Hong Kong society about the methods for selecting the Chief Executive and for forming the Legislative Council after the year 2007, including the views of some bodies and people that they wish to see the selection of the Chief Executive by universal suffrage in the year 2007 and the election of all the members of the Legislative Council by universal suffrage in the year 2008.

The Session is of the view that Articles 45 and 68 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic

of China (hereinafter referred to as "Hong Kong Basic Law") already expressly provide that the methods for selecting the Chief Executive of the Hong Kong Special Administrative Region and for forming the Legislative Council of the Hong Kong Special Administrative Region shall be specified in the light of the actual situation in the Hong Kong Special Administrative Region and in accordance with the principle of gradual and orderly progress, and that the ultimate aims are the selection of the Chief Executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures and the election of all the members of the Legislative Council by universal suffrage. The methods for selecting the Chief Executive of the Hong Kong Special Administrative Region and for forming the Legislative Council of the Hong Kong Special Administrative Region shall conform to the above principles and provisions of the Hong Kong Basic Law. Any change relating to the methods for selecting the Chief Executive of the Hong Kong Special Administrative Region and for forming the Legislative Council of the Hong Kong Special Administrative Region shall conform to principles such as being compatible with the social, economic, political development of Hong Kong, being conducive to the balanced participation of all sectors and groups of the society, being conducive to the effective operation of the executive-led system, being conducive to the maintenance of the long-term prosperity and stability of Hong Kong.

The Session is of the view that since the establishment of the Hong Kong Special Administrative Region, Hong Kong residents have enjoyed democratic rights that they have never had before. The first Chief Executive was elected by the Selection Committee, which was composed of 400 members. The second Chief Executive was elected by the Election Committee, which was composed of 800 members. Out of the 60 members of the Legislative Council, the number of members returned by geographical constituencies through direct elections increased from 20 in the Legislative Council in the first term to 24 in the Legislative Council in the second term and will reach 30 in the Legislative Council in the third term to be formed this September. Hong Kong does not have a long history of practising democratic elections. Until now, Hong Kong residents have exercised the democratic right to participate in the selection of the Chief Executive of the Special Administrative Region for less than

7 years. Since the reunification of Hong Kong with the motherland, the number of members of the Legislative Council returned by geographical constituencies through direct elections has already substantially increased. When the set-up is such that half of the members are returned by geographical constituencies through direct elections and half of the members are returned by functional constituencies, the impact on the operation of the Hong Kong society as a whole, especially the impact on the executive-led system, remains to be examined through practice. Further, at present, different sectors of the Hong Kong society still have considerable differences on how to determine the methods for selecting the Chief Executive and for forming the Legislative Council after the year 2007 and have not come to a broad consensus. In the circumstances, conditions do not exist for the selection of the Chief Executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures as provided for in Article 45 of the Hong Kong Basic Law and the election of all the members of the Legislative Council by universal suffrage as provided for in Article 68 of the Hong Kong Basic Law.

In the light of the above and pursuant to the relevant provisions of the Hong Kong Basic Law and "The Interpretation by the Standing Committee of the National People's Congress of Article 7 of Annex I and Article III of Annex II to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China", the Standing Committee of the National People's Congress makes the following decision on the methods for selecting the Chief Executive of the Hong Kong Special Administrative Region in the year 2007 and for forming the Legislative Council of the Hong Kong Special Administrative Region in the year 2008:

1. The election of the third Chief Executive of the Hong Kong Special Administrative Region to be held in the year 2007 shall not be by means of universal suffrage. The election of the Legislative Council of the Hong Kong Special Administrative Region in the fourth term in the year 2008 shall not be by means of an election of all the members by universal suffrage. The ratio between members returned by functional constituencies and members returned by geographical constituencies through direct elections, who shall respectively occupy half of the seats, is

to remain unchanged. The procedures for voting on bills and motions in the Legislative Council are to remain unchanged.

2. Subject to Article 1 of this Decision not being contravened, appropriate amendments that conform to the principle of gradual and orderly progress may be made to the specific method for selecting the third Chief Executive of the Hong Kong Special Administrative Region in the year 2007 and the specific method for forming the Legislative Council of the Hong Kong Special Administrative Region in the fourth term in the year 2008 according to the provisions of Articles 45 and 68 of the Hong Kong Basic Law and the provisions of Article 7 of Annex I and Article III of Annex II to the Hong Kong Basic Law.

The Session is of the view that developing democracy in the Hong Kong Special Administrative Region in the light of the actual situation and in a gradual and orderly manner according to the provisions of the Hong Kong Basic Law has all along been the resolute and firm stance of the Central Authorities. With the development and progress in all aspects of the Hong Kong society and through the joint endeavours of the Government of the Hong Kong Special Administrative Region and Hong Kong residents, the democratic system of the Hong Kong Special Administrative Region will certainly be able to progress forward incessantly, and ultimately attain the aims of selecting the Chief Executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures and electing all the members of the Legislative Council by universal suffrage provided for in the Hong Kong Basic Law.

Note:

* This is an English translation of the original instrument in Chinese and is published for information.

* Interpretation of Paragraph 2, Article 53 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China by the Standing Committee of the National People's Congress

(Adopted at the Fifteenth Session of the Standing Committee of the Tenth National People's Congress on 27 April 2005.)

The Standing Committee of the Tenth National People's Congress at its 15th session deliberated the State Council's Proposal on Requesting Interpretation of Paragraph 2, Article 53 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China. In accordance with Item 4, Article 67 of the Constitution of the People's Republic of China and Paragraph 1, Article 158 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, and after consulting the Committee for the Basic Law of the HKSAR under the NPC Standing Committee, the Standing Committee of the National People's Congress hereby makes the following interpretation on Paragraph 2, Article 53 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China.

Paragraph 2, Article 53 of the Basic Law stipulates, "In the event that the office of Chief Executive becomes vacant, a new Chief Executive shall be selected within six months in accordance with the provisions of Article 45 of this Law." The phrase "a new Chief Executive shall be selected ... in accordance with the provisions of Article 45 of this Law" implies that both the method of selecting and the term of office of the new Chief Executive shall be as prescribed and determined by the said Article.

Paragraph 3, Article 45 of the Basic Law stipulates, "The specific method for selecting the Chief Executive is prescribed in Annex I 'Method for the Selection of the Chief Executive of the Hong Kong Special Administrative Region'." Clause 1 of Annex I stipulates, "The Chief Executive shall be elected by a broadly representative Election Committee in accordance with this Law and appointed by the Central People's Government." Clause 2 of Annex I stipulates, "The term of office of the

Election Committee shall be five years." Clause 7 of Annex I stipulates, "If there is a need to amend the method for selecting the Chief Executives for the terms subsequent to the year 2007, such amendments must be made with the endorsement of a two-thirds majority of all the members of the Legislative Council and the consent of the Chief Executive, and they shall be reported to the Standing Committee of the National People's Congress for approval." These provisions make it clear that prior to the year 2007, when the Chief Executive is selected by the Election Committee with a five-year term of office, in the event that the office of Chief Executive becomes vacant as he (she) fails to serve the full term of office of five years as prescribed by Article 46 of the Basic Law, the term of office of the new Chief Executive shall be the remainder of the previous Chief Executive; and that after 2007, the above-mentioned method for selecting the Chief Executives could be amended, and should the office of the Chief Executive then become vacant, the term of office of the new Chief Executive shall be determined in accordance with the amended method for the selection of the Chief Executive.

This Interpretation is hereby announced.

Note:

* This English translation text is prepared by the Department of Justice, Government of the Hong Kong Special Administrative Region.

*** Decision of the Standing Committee of the National People's Congress on Issues Relating to the Methods for Selecting the Chief Executive of the Hong Kong Special Administrative Region and for Forming the Legislative Council of the Hong Kong Special Administrative Region in the Year 2012 and on Issues Relating to Universal Suffrage**

(Adopted at the Thirty First Session of the Standing Committee of the Tenth National People's Congress on 29 December 2007)

The Standing Committee of the Tenth National People's Congress considered at its Thirty-first Session the "Report on the Public Consultation on Constitutional Development and on whether there is a need to amend the methods for selecting the Chief Executive of the Hong Kong Special Administrative Region and for forming the Legislative Council of the Hong Kong Special Administrative Region in 2012" submitted by Tsang Yam-kuen, the Chief Executive of the Hong Kong Special Administrative Region, on 12 December 2007. The Session is of the view that appropriate amendments may be made to the specific method for selecting the fourth Chief Executive and the specific method for forming the fifth term Legislative Council of the Hong Kong Special Administrative Region in the year 2012; that the election of the fifth Chief Executive of the Hong Kong Special Administrative Region in the year 2017 may be implemented by the method of universal suffrage; that after the Chief Executive is selected by universal suffrage, the election of the Legislative Council of the Hong Kong Special Administrative Region may be implemented by the method of electing all the members by universal suffrage. Pursuant to the relevant provisions of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China and "The Interpretation by the Standing Committee of the National People's Congress of Article 7 of Annex I and Article III of Annex II to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China", the Standing Committee of the National People's Congress hereby makes the following decision:

1. The election of the fourth Chief Executive of the Hong

Kong Special Administrative Region in the year 2012 shall not be implemented by the method of universal suffrage. The election of the fifth term Legislative Council of the Hong Kong Special Administrative Region in the year 2012 shall not be implemented by the method of electing all the members by universal suffrage. The half-and-half ratio between members returned by functional constituencies and members returned by geographical constituencies through direct elections shall remain unchanged. The procedures for voting on bills and motions in the Legislative Council shall remain unchanged. Subject to the aforementioned, appropriate amendments conforming to the principle of gradual and orderly progress may be made to the specific method for selecting the fourth Chief Executive of the Hong Kong Special Administrative Region in the year 2012 and the specific method for forming the fifth term Legislative Council of the Hong Kong Special Administrative Region in the year 2012 in accordance with the provisions of Articles 45 and 68, and those of Article 7 of Annex I and Article III of Annex II to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China.

2. At an appropriate time prior to the selection of the Chief Executive of the Hong Kong Special Administrative Region by universal suffrage, the Chief Executive shall make a report to the Standing Committee of the National People's Congress as regards the issue of amending the method for selecting the Chief Executive in accordance with the relevant provisions of the Hong Kong Basic Law and "The Interpretation by the Standing Committee of the National People's Congress of Article 7 of Annex I and Article III of Annex II to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China"; a determination thereon shall be made by the Standing Committee of the National People's Congress. The bills on the amendments to the method for selecting the Chief Executive and the proposed amendments to such bills shall be introduced by the Government of the Hong Kong Special Administrative Region to the Legislative Council; such amendments must be made with the endorsement of a two-thirds majority of all the members of the Legislative Council and the consent of the Chief Executive and they shall be reported to the Standing Committee of the National People's Congress for approval.

3. At an appropriate time prior to the election of all the members of the Legislative Council of the Hong Kong Special Administrative Region by universal suffrage, the Chief Executive shall make a report to the Standing Committee of the National People's Congress as regards the issue of amending the method for forming the Legislative Council and the issue of whether any corresponding amendment should be made to the procedures for voting on bills and motions in the Legislative Council in accordance with the relevant provisions of the Hong Kong Basic Law and "The Interpretation by the Standing Committee of the National People's Congress of Article 7 of Annex I and Article III of Annex II to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China"; a determination thereon shall be made by the Standing Committee of the National People's Congress. The bills on the amendments to the method for forming the Legislative Council and its procedures for voting on bills and motions and the proposed amendments to such bills shall be introduced by the Government of the Hong Kong Special Administrative Region to the Legislative Council; such amendments must be made with the endorsement of a two-thirds majority of all the members of the Legislative Council and the consent of the Chief Executive and they shall be reported to the Standing Committee of the National People's Congress for the record.

4. If no amendment is made to the method for selecting the Chief Executive, the method for forming the Legislative Council or its procedures for voting on bills and motions in accordance with the legal procedures, the method for selecting the Chief Executive used for the preceding term shall continue to apply, and the method for forming the Legislative Council and the procedures for voting on bills and motions used for the preceding term shall continue to apply.

The Session is of the view that in accordance with the provisions of Article 45 of the Hong Kong Basic Law, in selecting the Chief Executive of the Hong Kong Special Administrative Region by the method of universal suffrage, a broadly representative nominating committee shall be formed. The nominating committee may be formed with reference to the current provisions regarding the Election Committee in Annex I to the Hong Kong Basic Law. The nominating committee shall in accordance with democratic procedures nominate a certain number of

candidates for the office of the Chief Executive, who is to be elected through universal suffrage by all registered electors of the Hong Kong Special Administrative Region, and to be appointed by the Central People's Government.

The Session is of the view that with the joint efforts of the Government of the Hong Kong Special Administrative Region and the people of Hong Kong, the democratic system of the Hong Kong Special Administrative Region will definitely make progress continuously, and that the aim of the selection of the Chief Executive and the election of all the members of the Legislative Council by universal suffrage will be realized in accordance with the Hong Kong Basic Law and this Decision.

Note:

* This English translation is prepared by the Department of Justice, Government of the Hong Kong Special Administrative Region. It is for reference purposes and has no legislative effect.

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***Interpretation of Paragraph 1, Article 13 and Article 19 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China by the Standing Committee of the National People's Congress**

(Adopted at the Twenty Second Session of the Standing Committee of the Eleventh National People's Congress on 26 August 2011)

The Standing Committee of the Eleventh National People's Congress examined at its Twenty-second Session the motion regarding the request for examination of *The Draft Interpretation of Paragraph 1, Article 13 and Article 19 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China by the Standing Committee of the National People's Congress* submitted by the Council of Chairmen. The motion of the Council of Chairmen was submitted upon the report by the Court of Final Appeal of the Hong Kong Special Administrative Region requesting the Standing Committee of the National People's Congress to interpret the relevant provisions of *the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China*, in accordance with the provisions of Paragraph 3, Article 158 of the *Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China*.

The Court of Final Appeal of the Hong Kong Special Administrative Region needs to ascertain, in adjudicating a case involving the Democratic Republic of the Congo, whether the Hong Kong Special Administrative Region should apply the rules or policies on state immunity as determined by the Central People's Government. For this purpose, in accordance with the provisions of Paragraph 3, Article 158 of *the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China*, the Court of Final Appeal of the Hong Kong Special Administrative Region, seeks an interpretation from the Standing Committee of the National People's Congress on the following questions: "(1) whether on the true interpretation of Paragraph 1, Article 13, the Central People's Government has the power to determine the rule or policy of the People's Republic of China on state immunity; (2)

if so, whether, on the true interpretation of Paragraph 1, Article 13 and Article 19, the Hong Kong Special Administrative Region (HKSAR), including the courts of the HKSAR: ① is bound to apply or give effect to the rule or policy on state immunity determined by the Central People's Government under Paragraph 1, Article 13; or ② on the other hand, is at liberty to depart from the rule or policy on state immunity determined by the Central People's Government under Paragraph 1, Article 13 and to adopt a different rule; (3) whether the determination by the Central People's Government as to the rule or policy on state immunity falls within 'acts of state such as defence and foreign affairs' in the first sentence of Paragraph 3, Article 19 of the Basic Law; and (4) whether, upon the establishment of the HKSAR, the effect of Paragraph 1, Article 13, Article 19 and the status of Hong Kong as a Special Administrative Region of the People's Republic of China upon the common law on state immunity previously in force in Hong Kong (that is, before 1 July 1997), to the extent that such common law was inconsistent with the rule or policy on state immunity as determined by the Central People's Government pursuant to Paragraph 1, Article 13, was to require such common law to be applied subject to such modifications, adaptations, limitations or exceptions as were necessary to ensure that such common law is consistent with the rule or policy on state immunity as determined by the Central People's Government, in accordance with Articles 8 and 160 of *the Basic Law and the Decision of the Standing Committee of the National People's Congress* dated 23 February 1997 made pursuant to Article 160." The above request for interpretation by the Court of Final Appeal of the Hong Kong Special Administrative Region complies with the provisions of Paragraph 3, Article 158 of *the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China*.

In accordance with Subparagraph (4), Article 67 of the Constitution of the People's Republic of China and Article 158 of *the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China*, and after consulting the Committee for the Basic Law of the Hong Kong Special Administrative Region under the Standing Committee of the National People's Congress, the Standing Committee of the National People's Congress, in relation to the request for interpretation by the Court of Final Appeal of the Hong Kong Special Administrative Region, hereby makes the following interpretation of the provisions of Paragraph 1,

Article 13 and Article 19 of *the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China* and related issues:

1. On question (1) on which an interpretation is sought by the Court of Final Appeal of the Hong Kong Special Administrative Region. According to Subparagraph (9), Article 89 of *the Constitution of the People's Republic of China*, the State Council as the Central People's Government exercises the function and power to conduct the foreign affairs of the State; as the rules or policies on state immunity fall within diplomatic affairs in the realm of the foreign affairs of the state, the Central People's Government has the power to determine the rules or policies of the People's Republic of China on state immunity to be given effect to uniformly in the territory of the People's Republic of China. Based on the above, in accordance with the provisions of Paragraph 1, Article 13 of *the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China* that "[t]he Central People's Government shall be responsible for the foreign affairs relating to the Hong Kong Special Administrative Region", the conduct of the foreign affairs relating to the Hong Kong Special Administrative Region falls within the power of the Central People's Government. The Central People's Government has the power to determine the rules or policies on state immunity to be applied in the Hong Kong Special Administrative Region.

2. On question (2) on which an interpretation is sought by the Court of Final Appeal of the Hong Kong Special Administrative Region. According to the provisions of Paragraph 1, Article 13 of *the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China* and Article 1 of this Interpretation, the Central People's Government has the power to determine the rules or policies on state immunity to be applied in the Hong Kong Special Administrative Region. According to the provision of Article 19 of *the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China* and Article 3 of this Interpretation, the courts of the Hong Kong Special Administrative Region have no jurisdiction over the act of the Central People's Government in determining the rules or policies on state immunity. Therefore, when questions of immunity from jurisdiction and immunity from execution of foreign states and their properties

arise in the adjudication of cases, the courts of the Hong Kong Special Administrative Region must apply and give effect to the rules or policies on state immunity determined by the Central People's Government as being applicable to the Hong Kong Special Administrative Region. Based on the above, in accordance with the provisions of Paragraph 1, Article 13 and Article 19 of *the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China*, the Hong Kong Special Administrative Region, including the courts of the Hong Kong Special Administrative Region, is under a duty to apply or give effect to the rules or policies on state immunity that the Central People's Government has determined, and must not depart from the abovementioned rules or policies nor adopt a rule that is inconsistent with the abovementioned rules or policies.

3. On question (3) on which an interpretation is sought by the Court of Final Appeal of the Hong Kong Special Administrative Region. State immunity concerns whether the courts of a state have jurisdiction over foreign states and their properties and whether foreign states and their properties enjoy immunity in the courts of a state. It directly relates to the state's foreign relations and international rights and obligations. Therefore, the determination as to the rules or policies on state immunity is an act of state involving foreign affairs. Based on the above, "acts of state such as defence and foreign affairs" as stipulated in Paragraph 3, Article 19 of *the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China* includes the act of determination by the Central People's Government as to the rules or policies on state immunity.

4. On question (4) on which an interpretation is sought by the Court of Final Appeal of the Hong Kong Special Administrative Region. According to the provisions of Articles 8 and 160 of *the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China*, the laws previously in force in Hong Kong shall be maintained only if there is no contravention of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China. In accordance with the provisions of Paragraph 4 of the *Decision of the Standing Committee of the National People's Congress on Treatment of the Laws Previously in Force in Hong Kong in accordance with Article*

160 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, such of the laws previously in force in Hong Kong which have been adopted as the laws of the Hong Kong Special Administrative Region shall, as from 1 July 1997, be applied subject to such modifications, adaptations, limitations or exceptions as are necessary so as to bring them into conformity with the status of Hong Kong after resumption by the People's Republic of China of the exercise of sovereignty over Hong Kong as well as to be in conformity with the relevant provisions of the Basic Law. The Hong Kong Special Administrative Region, as a local administrative region of the People's Republic of China that enjoys a high degree of autonomy and comes directly under the Central People's Government, must give effect to the rules or policies on state immunity as determined by the Central People's Government. The laws previously in force in Hong Kong relating to the rules on state immunity may continue to be applied after 1 July 1997 only if they comply with the above requirements. Based on the above, in accordance with the provisions of Paragraph 1, Article 13 and Article 19 of *the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China*, such of the laws previously in force in Hong Kong concerning the rules on state immunity which have been adopted as the laws of the Hong Kong Special Administrative Region according to the *Decision of the Standing Committee of the National People's Congress on Treatment of the Laws Previously in Force in Hong Kong in accordance with Article 160 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China*, when applied as from 1 July 1997, must be subject to such modifications, adaptations, limitations or exceptions as are necessary so as to be consistent with the rules or policies on state immunity that the Central People's Government has determined.

The interpretation is hereby announced.

Note:

* This is an English translation of the original instrument in Chinese and is published for information.