

**National Security (Legislative Provisions) Bill :
Seriously endangering the stability of the PRC**

The proposed offence of subversion includes as an element the use of force or serious criminal means that seriously endangers “the stability of the People’s Republic of China”. The Administration has been asked to explain whether endangering the stability of the HKSAR or of Taiwan would satisfy that element.

2. The ordinary dictionary meaning of “stability” is freedom from liability to fall or be overthrown. The stability of the PRC would be seriously endangered, therefore, if there were a serious danger that the country might fall or be overthrown. The question whether the use of force or serious criminal means in the HKSAR or Taiwan would create such a danger would depend on all the circumstances.

3. The fact that the use of such force or means destabilized Hong Kong or Taiwan would not of itself be sufficient. It would have to be demonstrated that the stability of the country was seriously endangered. It would require highly exceptional circumstances for this to be the case. A local incident, even if it involved force or serious criminal means, would be unlikely to seriously endanger national stability. For example, a riot that caused serious property damage in Hong Kong would be unlikely to have such an effect.

4. It is, however, conceivable that extremely violent conduct in Hong Kong might endanger national security. For example, if a group was engaged in blowing up all government buildings and banks in the HKSAR, this might seriously endanger national stability. Even then, the members of the group would only be liable for conspiracy to commit subversion if they had agreed to –

- (1) disestablish the basic system of the People’s Republic of China as established by the Constitution of the People’s Republic of China;
- (2) overthrow the Central People’s Government; or
- (3) intimidate the Central People’s Government,

by engaging in such conduct, knowing that it would, or being reckless as to whether it would, seriously endanger the stability of the PRC.

Department of Justice
April 2003