

National Security (Legislative Provisions) Bill :
“The People’s Republic of China”

This paper explains the meaning of the reference to “the People’s Republic of China” in the Bill, in particular whether it includes Taiwan.

Annex III laws

2. By virtue of Article 18 and Annex III of the Basic Law, the Declaration of the Government of the PRC on the Territorial Sea and the Law of the PRC on the Territorial Sea and the Contiguous Zone are national laws that apply in Hong Kong. It is clear from these laws that Taiwan is part of the PRC.

3. Article (1) of the Declaration of the Government of the PRC on the Territorial Sea provides that -

“The width of the territorial sea of the People’s Republic of China is twelve national miles. This provision applies to all Territories of the People’s Republic of China, including the mainland China and offshore islands, **Taiwan** (separated from the mainland and offshore islands by high seas) **and its surrounding islands**, the Penghu Archipelago, the Dongsha Islands, the Xisha Islands, the Zhongsha Islands, the Nansha Islands and other islands belonging to China.”
(emphasis added)

4. Article 2 of the Law of the PRC on the Territorial Sea and the Contiguous Zone provides, inter alia, that -

“The land territory of the People’s Republic of China includes the mainland of the People’s Republic of China and its coastal islands: **Taiwan and all islands appertaining thereto including the Diaoyu Islands**; the Penghu Islands; the Dongsha Islands; the Xisha Islands; the Zhongsha Islands and the Nansha Islands; as well as all the other islands belonging to the People’s Republic of China.”
(emphasis added)

Cap. 1 meaning

5. Section 3 of the Interpretation and General Clauses Ordinance (Cap. 1) provides that “People’s Republic of China” includes “Taiwan, the Hong Kong Special Administrative Region and Macau”.

6. Since the reference to “the People’s Republic of China” is not defined in the Bill, the Cap. 1 definition shall apply unless there is a contrary intention (see section 2(1) of Cap. 1). A contrary intention is stated in, for example, the proposed section 8A(5)(f) of the Societies Ordinance, which defines “mainland organizations” to mean “any body of persons organized and established or having its headquarters or principal place of business in any part of the People’s Republic of China other than Taiwan, Hong Kong or Macau”.

Department of Justice
May 2003

#66298 v1