



UNION INTERNATIONALE DES EDITIONS  
INTERNATIONALE VERLEGER - UNION

INTERNATIONAL PUBLISHERS ASSOCIATION  
UNION INTERNACIONAL DE EDITORES

Hon Mrs Rita FAN HSU lai-tai  
Room 523G, West Wing  
Central Government Offices  
Hong Kong

14 March 2003

**Re: Provisions pertaining to "seditious publications" in the National Security Bill**

Dear Mrs. Fan Hsu Lai-tai,

The International Publishers' Association (IPA) is deeply concerned about a number of provisions of the National Security Bill amending the Crimes Ordinance, the Official Secrets Ordinance and the Societies Ordinance pursuant to the obligation imposed by Article 23 of the Basic Law the Hong Kong SAR of the People's Republic of China and to provide for related, incidental and consequential amendments.

IPA, established in Paris in 1896, represents the publishing industry world-wide through 78 national, regional and specialised publishers associations in 66 countries. IPA is an accredited Non-Governmental Organisation enjoying a consultative status to the United Nations. The Office of the Secretariat is in Geneva, Switzerland.

One of IPA's primary missions is to safeguard the fundamental freedoms to publish and to read. It defends the rights of authors and publishers to create and distribute the works of the mind in complete freedom.

The National Security Bill introduced by the Administration into the Legislative Council on 26 February 2003 contains a number of issues of concern to our constituency.

Although Article 23 of the Basic Law will be implemented through the use of existing legislation as far as possible, and the SAR Government will need to meet fully the requirements of the Basic Law, including Articles 27 and 39 of the Basic Law, we are particularly concerned about a number of provisions pertaining to sedition.

The definition of a seditious publication (9C.1) is as follows: "A seditious publication is a publication that is likely to cause the commission of an offence under section 2 (treason), 2A (subversion) or 2B (secession).

In terms of Article 9C, it would be an offence to:

- "publish, sell, offer for sale, distribute or display any seditious publication" (9C.2.a)
- "print or reproduce any seditious publication" (9C.2.b)
- "imports or exports any seditious publication" (9C.2.c)

"with intent to incite others, by means of the publication, to commit an offence under section 2 (treason), 2A (subversion) or 2B (secession)". A violation of Article 9C would constitute "an offence" and would be "liable on conviction on indictment to a fine of \$ 500,000 and to imprisonment for 7 years".

Article 9C must be read with Article 9D of the Bill. Article 9D preserves limited opportunity to comment on political and public life in Hong Kong and China.

The IPA is deeply concerned about the definition of a "seditious publication" spelled out in the proposed National Security Bill. As it is too vague, it could lead to some unexpected interpretations. Actually, the very concept of "seditious publication" is a clear threat to the fundamental freedoms to publish and to read.

Article 9C would affect the entire book trade. If article 9C came into force, authors, publishers, booksellers and librarians would face permanent uncertainty as to which publication would or not qualify as "seditious". Moreover, the provision targeting the imports and exports of any seditious publication is against the spirit of the 1950 Florence Agreement of which Hong Kong, China, is a party.

Furthermore, should the term "publication" include electronic communication and publications, the Bill would threaten not only print publications in Hong Kong, but potentially also any electronic publication and website accessible from Hong Kong, thus raising serious concerns about the extra-territorial impact of the Bill.

The very fact that it was necessary to insert Article 9D, limiting the scope of Article 9C and expressly permitting certain forms of free expression, shows the vagueness and over-broad scope of the provision.

We share the view of a very high number of media organisations, Journalist's Associations, freedom of expression organisations and advocates, that implementation of Article 23 is unnecessary, considering that Hong Kong current legislative body is already able to assure the protection of national security. In particular, the IPA feels compelled to call upon the Hong Kong authorities not to enact the concept of "seditious publication".

In conclusion, IPA joins the International Federation of Library Associations (IFLA) by respectfully calling upon the Hong Kong SAR Government to ensure that authors and publishers can continue to create and distribute the works of the mind in complete freedom. We sincerely hope that you will resolve to uphold the principles enshrined in Article 19 of the United Nations' Universal Declaration of Human Rights: "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers".

Yours sincerely,

Lars Grahn



Chairman of IPA's Freedom to Publish Committee

cc: Mr. Tung Chee Hwa, Chief Executive, Hong Kong SAR, People's Republic of China  
IP Kwok-him, Chairman, National Security Bill Commission  
H.E. Mr. Sha Zukand, Ambassador & Permanent Representative, Permanent Mission of the People's Republic of China to the UN Office at Geneva and other International organisations in Switzerland  
H.E. Mr. Wu Chuanfu, Chinese Ambassador to Switzerland  
Mr. Christopher Patten, Commissioner, European Commission External Relations DG  
Mr. Colin L. Powell, US Secretary of State  
Mr. Gil-Robles, Council of Europe's Commissioner for Human Rights  
Sergio Vieira de Mello, High Commissioner for Human Rights, United Nations  
Mrs Milagros del Corral, Deputy Assistant Director General, Culture Sector, UNESCO  
Mr. Ross Shimmmon, Secretary General, International Federation of Library Associations and Institutions (IFLA)  
Mr. Alex Byrne, Chair, IFLA Freedom of Access to Information and Freedom of Expression Committee  
Mr. Eugene Schoulgin, Chairman, International P.E.N, Writers in Prison Committee  
Mr. Timothy Balding, Executive Director, World Association of Newspapers  
Mr. Kjell Olaf Jensen, Chairman, Norwegian PEN Centre  
Mr. Yu Youxian, Chairman, Publishers Association of China  
Mrs Mechthild von Alemann, Director, Federation of European Publishers  
Mrs Patricia Schroeder, President and CEO, Association of American Publishers  
Mrs Nan Graham, Chair, International Freedom to Publish Committee, Association of American Publishers  
Mr. Charles Clark, Secretary, Freedom to Publish Committee, UK Publishers Association

