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26 June 2020

Mr Lemuel Woo
Clerk to Panel on Administration of
Justice and Legal Services
Legislative Council
Legislative Council Complex
1 Legislative Council Road
Central
Hong Kong

Dear Mr Woo,

Panel on Administration of Justice and Legal Services

**Letter dated 22 May 2020 from five Members to the
Panel Chairman**

**Decision of the National People's Congress (“NPC”)
on Establishing and Improving the Legal System and Enforcement
Mechanisms for the Hong Kong Special Administrative Region
(“HKSAR”) to Safeguard National Security**

I refer to your letter dated 24 June 2020 enclosing the letter dated 22 May from five Members to the Panel Chairman regarding the subject matter. On the request of the Panel Chairman, the Department of Justice (“DoJ”) replies as follows.

It is the constitutional responsibility of the HKSAR to safeguard national security. Taking into consideration the actual situation in Hong Kong, the adoption of a law at the state level to safeguard national security in

the HKSAR is a major initiative of the Central Authorities at a critical moment to improve the "One Country, Two Systems" regime,*[See unofficial English translation of the preamble of the Decision.]* ensuring the long-term prosperity and stability of Hong Kong. The HKSAR Government fully supports this initiative and will fulfil its responsibility to ensure the effective implementation of the relevant law in Hong Kong.

According to Article 6 of the Decision of the NPC on Establishing and Improving the Legal System and Enforcement Mechanisms for the HKSAR to Safeguard National Security ("the Decision") adopted at the Third Session of the Thirteenth NPC on 28 May, the NPC Standing Committee ("NPCSC") is entrusted to formulate relevant laws on establishing and improving the legal system and enforcement mechanisms for the HKSAR to safeguard national security, in order to effectively prevent, stop and punish acts and activities to split the country, subvert state power, organize and carry out terrorist activities and other behaviours that seriously endanger national security, as well as activities of foreign and external forces interfering in the affairs of the HKSAR. The NPCSC decides on including relevant laws into Annex III of the Basic Law of the HKSAR of the People's Republic of China ("Basic Law") to be promulgated and implemented by the HKSAR locally.

On 20 June, Xinhua News Agency published a summary of the explanatory notes on a draft law of the PRC on safeguarding national security in the HKSAR ("the draft law") issued by the Legislative Affairs Commission of the NPCSC at the Nineteenth Session of the Standing Committee of the Thirteenth NPC on 18 June. As pointed out in the summary of the explanatory notes, in recent times, the relevant Central Authorities have carried out the drafting work of the relevant law seriously, and on various occasions listened to views from the Chief Executive of the HKSAR and relevant Principal Officials in relation to the law on safeguarding national security in HKSAR. The Hong Kong and Macao Affairs Office of the State Council and the Liaison Office of the Central People's Government in the HKSAR have, through various means and channels, listened to views of different representatives on the relevant legislative exercise carried out by the State, and carefully studied views expressed by deputies of the NPC and members of the National Committee of the Chinese People's Political Consultative Conference ("CPPCC") during the plenary sessions of the NPC and the CPPCC National Committee. It is

on this basis that the draft law on safeguarding national security in the HKSAR was drafted. Once the text of the draft law was available, the relevant authorities have specifically consulted the HKSAR Government and relevant parties, and have seriously studied the views reflected by the HKSAR Government, considered the actual situation in the HKSAR and improved the draft law through multiple reviews under the spirit of accommodating their views as far as possible.

The adoption of a law on safeguarding national security in the HKSAR is to effectively prevent, suppress and impose punishment for four types of offences, namely, secession, subversion, terrorist activities, and collusion with a foreign country or with external elements to endanger national security. The law only targets an extremely small minority of offenders while the lives and property of the overwhelming majority of Hong Kong residents as well as various basic rights and freedoms lawfully enjoyed by them will be protected. According to the summary of the explanatory notes, the draft law makes it clear that the law on safeguarding national security in the HKSAR should adhere to a number of important principles of the rule of law, including that of conviction and punishment in accordance with the law, presumption of innocence, and protection of the rights of the suspect, etc. It should also respect and protect the rights and freedoms under the Basic Law and relevant international covenants as applied to Hong Kong. The Decision clearly stipulates that the relevant legal system and enforcement mechanisms are to safeguard national sovereignty, security and development interests; uphold and improve the "One Country, Two Systems" regime; safeguard the long-term prosperity and stability of Hong Kong; and safeguard the legitimate rights and interests of Hong Kong residents.

The HKSAR Government will fully co-operate with the NPCSC to complete the relevant legislative work as soon as possible.

Yours sincerely,

(Hinz Chiu)
Administrative Assistant
to Secretary for Justice