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(By email and fax)
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[English Translation]

Ms Joanne MAK
Clerk to Panel on Constitutional Affairs
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

11 June 2020

Dear Ms MAK,

Panel on Constitutional Affairs

**Re: Letters from five members belonging to the Civic Party,
Dr Hon Helena WONG and Hon Mrs Regina IP**

In your letters of 20 April, 27 April and 4 May 2020, we are requested to provide responses to the letter dated 19 April from five members belonging to the Civic Party, the letter dated 20 April from Dr Hon Helena WONG, and the letter dated 28 April from Hon Mrs Regina IP to the Chairman of the Panel on Constitutional Affairs. Our reply is set out below.

The Government of the Hong Kong Special Administrative Region (HKSAR) issued three press releases on April 18 and 19 with respect to the recent remarks made by the Hong Kong and Macao Affairs Office of the State Council (HKMAO) and the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region (LOCPG). At around 7 pm on April 18, the first press release titled "Government responds to media enquiries on remarks by HKMAO and LOCPG" was issued. As the sentence "the LOCPG is one of the three organisations set up by the Central Government in accordance with Article 22(2) of the Basic Law" is factually inaccurate, a revised press release was issued at around 11:30 pm of the same day to the media to supersede the first one.

Article 22(2) of the Basic Law stipulates that 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.

The Xinhua News Agency (Hong Kong Branch), the antecedent of LOCPG, was founded more than 70 years ago. It had all along discharged relevant responsibilities in Hong Kong as the representative office authorised by the Central Government. The Agency continued to operate as an office authorised by the Central Government after Hong Kong's return to the Motherland. In December 1999, the State Council decided to change the office title of the Xinhua News Agency (Hong Kong Branch) to the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region. Hence, the LOCPG was not set up in accordance with Article 22(2) of the Basic Law.

The objective of the third press release issued subsequently around midnight on April 19 is to elaborate on the amendments, and at the same time to point out that the Office of the Commissioner of the Ministry of Foreign Affairs of the People's Republic of China in the HKSAR (OCMFA) was established in accordance with Article 13 of the Basic Law, while the Chinese People's Liberation Army Hong Kong Garrison (the Garrison) was stationed in the HKSAR in accordance with Article 14 of the Basic Law.

In accordance with Article 5 of the Constitution which stipulates that all state organs must abide by the Constitution and the law, the LOCPG must abide by the laws. Also, according to the Notice of the State Council on the Change of the Name of the Hong Kong Branch of Xinhua News Agency and the Macao Branch of Xinhua News Agency in 2000 (Reference: State Letter (2000) No. 5 (國函(2000)5號)), the LOCPG and its personnel would strictly abide by the Basic Law and the laws of Hong Kong, and discharge their duties in accordance with the law.

Regarding the relationship between the Central Authorities and the HKSAR, it is pertinent to note that the People's Republic of China (PRC) is a unitary state, and all power emanates from the Central Authorities, which may authorize regions to exercise specified powers. The Basic Law is a national

law promulgated by the National People's Congress in the exercise of its legislative powers in accordance with Articles 31 and 62(14) of the Constitution of the PRC. The Constitution of the PRC and the Basic Law together form the constitutional basis of the HKSAR.

Under Article 2 of the Basic Law, the HKSAR is authorized to exercise a high degree of autonomy in accordance with the provisions of the Basic Law. Article 12 of the Basic Law provides that the HKSAR shall enjoy a high degree of autonomy and come directly under the Central People's Government.

There are a number of provisions of the Basic Law relevant to the powers and responsibilities of the Central Government. For instance, Article 43(2) of the Basic Law states that the Chief Executive of the HKSAR shall be accountable to the Central People's Government and the HKSAR in accordance with the provisions of the Basic Law. Article 48(2) of the Basic Law provides that the Chief Executive shall be responsible for the implementation of the Basic Law and other laws which, in accordance with the Basic Law, apply in the HKSAR.

It follows from the above provisions of the Basic Law that the Chief Executive is accountable to the Central People's Government for the implementation of the Basic Law. The Central People's Government therefore has the power and responsibility to ensure and hence to supervise the proper implementation of the Basic Law and the "one country, two systems" principle in Hong Kong. The LOCPG is authorised by the Central Authorities to handle issues relating to Hong Kong. It is entrusted with the authority and responsibility to represent the Central Government to express views on major issues such as those concerning the relationship between the Central Authorities and the SAR, the accurate implementation of the Basic Law, the proper operation of the political system and the well-being of the community as a whole. Discharging such duties does not constitute any interference in the affairs which the HKSAR administers on its own in accordance with the Basic Law.

The House Committee of the Legislative Council failed to elect its Chairman after 17 meetings over the past six months which adversely affected the discussion and implementation of important Government policies. The concerns expressed and comments made by the HKMAO and LOCPG on the matter are legitimate from the perspectives of the Constitution, governance

and operation, and are in full compliance with the constitutional order under "one country, two systems".

Yours sincerely,



(Ms Cordelia LAM)

for Secretary for Constitutional and Mainland Affairs