

(Unofficial translation for information only)

Explanation on “The Draft Decision of the Standing Committee of the National People’s Congress on Adding a Law to the List of the National Laws in Annex III to the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China”

— Addressing the Twentieth Session of the Standing Committee of the Thirteenth National People’s Congress on 30 June 2020

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Chairman, Vice Chairpersons, Secretary General and all Committee members,

I have been entrusted by the Meeting of the Council of Chairpersons to explain the Draft Decision of the Standing Committee of the National People’s Congress on Adding a Law to the List of the National Laws in Annex III to the Basic Law of the Hong Kong Special Administrative Region (“HKSAR”) of the People’s Republic of China (“PRC”).

Article 18(2) of the Basic Law of the HKSAR of the PRC (hereinafter “Hong Kong Basic Law” in brief) stipulates that national laws shall not be applied in the HKSAR except for those listed in Annex III to the Hong Kong Basic Law. The laws listed therein shall be applied locally by way of promulgation or legislation by the HKSAR. Article 18(3) stipulates that the Standing Committee of the National People’s Congress (“NPC”) may add to or delete from the list of laws in

Annex III after consulting its Committee for the Basic Law of the HKSAR (“HKSAR Basic Law Committee”) and the government of the Region (“HKSAR Government”). Laws listed in Annex III to the Hong Kong Basic Law shall be confined to those relating to defence and foreign affairs as well as other matters outside the limits of the autonomy of the Region as specified by the Hong Kong Basic Law.

The Third Session of the 13th NPC adopted the Decision of the National People’s Congress on Establishing and Improving the Legal System and Enforcement Mechanisms for the Hong Kong Special Administrative Region to Safeguard National Security (hereinafter “the Decision” in brief). Article 6 of the Decision clearly stipulates that “[t]he NPC Standing Committee is entrusted to formulate the relevant law on establishing and improving the legal system and enforcement mechanisms for the HKSAR to safeguard national security, in order to effectively prevent, suppress and punish acts and activities of secession, subversion, organization and perpetration of terrorist activities, etc. that seriously endanger national security, as well as activities of foreign or external forces interfering in the affairs of the HKSAR. The NPC Standing Committee decides on including the relevant law into Annex III to the Basic Law of the [HKSAR] of the [PRC] to be promulgated and implemented by the HKSAR locally.”

This morning, the 20th Session of the 13th NPC Standing Committee adopted the Law of the People’s Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (hereinafter “National Security Law” in brief) and completed the task to formulate the relevant law. In the next step, the NPC Standing Committee has to, in accordance with the clear requirement of the Decision, decide on listing the National Security Law into Annex III to

the Hong Kong Basic Law and specify it to be promulgated and implemented by the HKSAR locally.

Upon the adoption of the National Security Law, the General Office of the NPC Standing Committee consulted with the HKSAR Basic Law Committee and the HKSAR Government in accordance with the established procedure. Both the HKSAR Basic Law Committee and the HKSAR Government considered it the requisite and an important initiative for implementing the Decision, which is in line with the NPC's Decision and the provisions of the Hong Kong Basic Law, and found it necessary and appropriate, that the NPC Standing Committee shall include the National Security Law into Annex III to the Hong Kong Basic Law and specify it to be promulgated and implemented by the HKSAR locally.

It is an important manifestation of the State's exercise of overall jurisdiction over the special administrative regions in accordance with the Constitution and the Basic Laws that the NPC Standing Committee shall include relevant laws into Annex III to the Basic Laws to be implemented in the special administrative regions. Safeguarding national security is a matter within the purview of the Central Authorities. The Central People's Government has an overarching responsibility for national security affairs relating to the HKSAR. The National Security Law has fully considered the practical needs for safeguarding national security and the actual circumstances of the HKSAR. It has made systematic and comprehensive provisions in respect of the legal system and enforcement mechanisms for the HKSAR to safeguard national security. It sets out clear provisions on preventing, suppressing and punishing in accordance with the law the four types of offences endangering national security and their criminal liabilities. It provides

the strong constitutional basis and legal basis for advancing the HKSAR's development of the relevant system and mechanisms to safeguard national security, and for strengthening its law enforcement and judicial work on safeguarding national security. The National Security Law formulated by the NPC Standing Committee in accordance with the Decision falls within the scope of laws which should be listed in Annex III to the Hong Kong Basic Law. The NPC Standing Committee's decision on including the relevant law into Annex III to the Hong Kong Basic Law is in line with the NPC's Decision and the relevant provisions of the Hong Kong Basic Law.

The NPC's Decision also clearly requires that the relevant law, upon the NPC Standing Committee's decision to list it into Annex III to the Hong Kong Basic Law, shall be promulgated and implemented by the HKSAR locally. In the process of formulating the National Security Law, efforts have been made to: uphold the policy of "One Country, Two Systems"; emphasize the accommodation of the differences between Mainland China and the HKSAR; strive to address the convergence, compatibility and complementarity between the National Security Law, and the relevant national laws and local laws of the HKSAR. In the relevant submissions made by the HKSAR Basic Law Committee and the HKSAR Government, they both expressed support for the promulgation and implementation of the Law by the HKSAR upon its inclusion in Annex III to the Hong Kong Basic Law. The NPC Standing Committee made clear in its relevant decision that it is necessary and appropriate for the Law to be promulgated and implemented by the HKSAR locally.

Upon the inclusion of the National Security Law into Annex III to the Hong Kong Basic Law, the HKSAR shall, as early as possible and in accordance with the local laws of Hong Kong, gazette the Law locally

and complete the procedure for promulgation and implementation. Upon the promulgation and implementation of the Law, [the HKSAR] shall fully implement the various requirements of the Law, conscientiously undertake the constitutional responsibility to safeguard national security and ensure the effective enforcement of the Law in the HKSAR.

You are kindly requested to examine whether the Draft Decision of the Standing Committee of the National People's Congress on Adding a Law to the List of the National Laws in Annex III to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China and the above explanation are in order.