

HKSAR Government strongly condemns and firmly opposes remarks by US Consul General to Hong Kong

The Government of the Hong Kong Special Administrative Region (HKSAR) today (January 26) strongly condemned the untruthful remarks, vilification and smearing by the Consul General of the United States of America (US) to Hong Kong, Mr Gregory May, in respect of the Hong Kong National Security Law (NSL), and the rule of law, rights and freedoms of the HKSAR, at a forum recently held by a US think tank. It also firmly opposed any biased comments against the HKSAR Government's work in safeguarding national security.

An HKSAR Government spokesman said that the untruthful and unfounded allegations against the implementation of the NSL in the HKSAR made by Mr May were clear attempts to make trouble out of nothing and amounted to scaremongering. The spokesman said, "When Hong Kong suffered from the widespread 'black-clad violence' in 2019, the US Government and politicians did not point out those acts, disregarding the law, breaching peace and challenging the HKSAR's authority, had caused severe damage to Hong Kong's society, economy and business environment and serious harm to the interests of enterprises in Hong Kong. Instead, since the implementation of the NSL in June 2020, the US Government and politicians have been repeatedly exploiting different incidents and occasions, as well as creating excuses, to slander the NSL and attack the HKSAR in its dutiful, faithful and lawful implementation of the NSL. They neglect the fact that the implementation of the NSL has enabled the livelihood and economic activities of the Hong Kong community at large to resume as normal and the business environment to be restored. All the above have clearly exposed the overbearing and domineering attitude of the US Government and politicians."

As to Mr May's skewed accusation and smearing against the interpretation of the Hong Kong National Security Law (NSL) given by the Standing Committee of the National People's Congress (NPCSC) last year, the HKSAR Government spokesman solemnly pointed out, "The NPCSC exercises the power of interpretation in accordance with the relevant provisions of the Constitution of the People's Republic of China and the NSL, which is a fundamental aspect of the 'one country, two systems' principle, and a manifestation of the principle of the rule of law. The legislative interpretation given recently by the NPCSC did not directly deal with specific judicial proceedings. Rather, it clarified the meaning of the relevant legal

provisions and the basis for application of the law. It does not in any way impair the independent judicial power and the power of final adjudication of the Hong Kong courts as guaranteed by the Basic Law. The interpretation stemmed from the controversial question of whether overseas lawyers who are not qualified to practise generally in Hong Kong may be admitted on an ad hoc basis to participate in cases concerning national security. Through the interpretation of Articles 14 and 47 of the NSL, the NPCSC provided clear guidance for the HKSAR to resolve the issue by itself.

"The NPCSC's interpretation pointed out that whether overseas lawyers not qualified to practise generally in the HKSAR may serve as defence counsel or legal representatives in cases concerning national security is a question that requires certification from the Chief Executive under Article 47 of the NSL. According to this provision, the courts shall request and obtain a certificate from the Chief Executive to certify whether an act involves national security or whether the relevant evidence involves State secrets when such questions arise in the adjudication of a case. The certificate shall be binding on the courts. The interpretation did not confer additional power on the Chief Executive in this respect, and only clarified that the provision is applicable in handling the controversy concerning overseas lawyers. The certification system is fair and reasonable, with a solid legal basis. National defence, foreign affairs, and national security are matters within the purview of the Central Authorities. In fact, owing to the inherent nature of matters concerning national security, the executive authority is in a far better position than the courts to make appropriate judgements. Hence, the courts will afford deference to the judgements made by the executive authority regarding national security matters. This principle is also a general rule for safeguarding national security practised by different places in the world, including in the US. It must be stressed that the certificate issued by the Chief Executive only provides binding certification to the court on the questions stipulated in Article 47 of the NSL. It does not usurp the function of the court in deciding on other issues of the legal proceedings or the adjudication of the case."

Regarding the implementation of the NSL, the HKSAR Government spokesman reiterated, "The suggestion made by the US that people, institutions or organisations with certain backgrounds should be immune from legal sanctions for their illegal acts and activities is tantamount to granting privileges to them to break the law, and this is totally contrary to the spirit of the rule of law. The NSL clearly stipulates four categories of offences that endanger national security. So long as people, regardless of whether they are Hong Kong residents or overseas tourists and investors, strictly

observe the laws in Hong Kong, they will not unwittingly violate the law. All law enforcement actions taken by Hong Kong law enforcement agencies under the NSL, or any local legislation, are based on evidence, strictly according to the law and for the acts of the people, institutions and organisations concerned, and have nothing to do with their political stance, background or occupation. The Department of Justice is in charge of criminal prosecutions, free from any interference by virtue of Article 63 of the Basic Law. All prosecution decisions are based on an objective analysis of all admissible evidence and applicable laws. The Judiciary exercises judicial power independently in accordance with the law, and all those facing criminal charges have the right to a fair trial."

The HKSAR Government spokesman stressed, "The HKSAR Government is firmly committed to upholding the rights and freedoms enjoyed by Hong Kong residents as protected under the law. Since Hong Kong's return to the motherland, human rights in the city have always been robustly guaranteed constitutionally by both the Constitution of the People's Republic of China and the Basic Law. The NSL clearly stipulates that human rights shall be respected and protected in safeguarding national security in the HKSAR. The rights and freedoms, including the freedoms of speech, of the press, of publication, of association, of assembly, of procession and of demonstration, that Hong Kong residents enjoy under the Basic Law, the provisions of the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights as applied to Hong Kong shall be protected in accordance with the law. Nonetheless, such rights and freedoms are not absolute. The ICCPR also expressly states that some of them may be subject to restrictions as prescribed by law that are necessary for protection of national security, public safety, public order or the rights and freedoms of others, etc. In other words, as internationally recognised, the freedom of the press and freedom of speech are not absolute. Institutions, organisations or individuals who claim to be engaged in journalism, like other institutions, organisations or individuals, cannot be exempted from their obligation to abide by the law, including criminal law."

As regards Hong Kong's economic prospects, the HKSAR Government spokesman said, "Hong Kong enjoys multifarious distinctive edges under the 'one country, two systems' principle, including the implementation of the common law system with the Judiciary exercising its judicial power independently, free flow of capital, a free trade and investment regime, a simple and low tax system, a favourable business environment, and an efficient government. These edges have long been attractive to enterprises across the world in doing business, investing and developing

in Hong Kong, making our city one of the most competitive economies worldwide. Hong Kong's status as an international financial centre is unshakeable. With a stable financial market and flourishing industries spanning such sectors as banking, securities, asset management, private equity, venture capital, hedge funds, insurance and fintech, the prospects are bright. With social stability restored by the implementation of the NSL, as well as the close financial integration with the Mainland, investors have become more interested in the Hong Kong market with greater confidence in the prospects of Hong Kong's development. As Hong Kong is resuming as normal steadily, international financial institutions have reiterated their confidence in, and commitment to, Hong Kong as an international financial centre, and are planning to expand their business and investment in Hong Kong. Upon resumption of normal travel and exchanges with the Mainland and other parts of the world, the economic outlook of Hong Kong this year will be even more optimistic.

"Under the 'one country, two systems' principle, Hong Kong has the distinctive advantage of enjoying strong support of the motherland and being closely connected to the world. With the unparalleled connectivity to the Mainland and the rest of the world, the prospects of Hong Kong's development are promising. As the centre of economic gravity in the world is shifting eastward, the Mainland, along with other fast-growing economies in the region, will be a major engine of global economic growth and a source of ample economic opportunities. Hong Kong will continue to play its unique role as a gateway and intermediary, with a view to reaping the enormous benefits of this trend and seizing the abundant development opportunities ahead. With the motherland's strong support, and the wide room for development brought about by national strategies including the National 14th Five-Year Plan, the Guangdong-Hong Kong-Macao Greater Bay Area development and the high-quality development of the Belt and Road Initiative, Hong Kong will be presented with unlimited business opportunities. The HKSAR Government will continue to create strong impetus for growth at full steam, forge a better integration of a capable government and an efficient market, and proactively compete for enterprises and talent to strengthen the city's competitiveness, with a view to taking the city's economic development to new heights."

On matters related to co-operation between the US and Hong Kong raised by Mr May, the HKSAR Government spokesman said, "The HKSAR has been proactively maintaining extensive ties and facilitating co-operation with different countries and regions in accordance with the Basic Law, and the proviso is that the latter must respect the 'one country, two systems' principle and must not smear or slander the

successful application of it. Any attempt by foreign countries or external forces to undermine Hong Kong's prosperity and stability by slandering the rule of law, rights and freedoms in the HKSAR will only expose their own weakness and faulty arguments and be doomed to fail. The HKSAR Government will continue to discharge its duty to steadfastly ensure the successful implementation of the 'one country, two systems' principle to better serve Hong Kong citizens and foster the city's development.

"The HKSAR Government urges the US Government again to immediately stop acting against the basic norms governing international relations, and immediately stop interfering in the affairs of the HKSAR."

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