

**Short Speech by Secretary for Justice
Ms Elsie Leung, GBM, JP
at the ExCo Luncheon on the 8 April, 2004**

Thank you, Chief Executive. Ladies and Gentlemen

At a meeting of the Council of Chairmen of the Standing Committee of the National People's Congress (NPCSC) held on the 26 March, 2004, it was decided that the draft Interpretation of Article 7 of Annex I and Article III of Annex II to the Basic Law of the HKSAR be included in the Agenda of the regular meeting of the NPCSC for consideration. A meeting of the Basic Law Committee comprising 6 Hong Kong members and 6 Mainland members was held in accordance with Article 158(4) of the Basic Law on the following 2 days and a report was submitted to the NPCSC for consideration. Regulations require that 7 days notice be given for convening the meeting and on the 30 March, a NPCSC delegation was dispatched to Shenzhen for consultation with the Task Force for Constitutional Development headed by the Chief Secretary, as well as the local delegates to the NPC and members of the Standing Committee of the CPPCC.

The Task Force took the opportunity to present to the NPCSC delegation a copy of our No. 1 Report on the 5 questions relating to legal and procedural issues, as well as copies of all written submissions received from the public during our 2 ½ months period of consultation. Hong Kong people's views were reflected to the NPCSC through the Task Force and the members of the Basic Law Committee.

Meeting of the NPCSC was held on the 2nd to 6th April and a decision was made on the interpretation of Article 7 of Annex I and Article III of Annex II, the gist of which is as follows:

- (1) These articles provide for amendment of the methods for selection or election of the Chief Executive and the formation of the Legislative Council if there is need to do so “subsequent to the year 2007” or “after 2007”. The Interpretation clarifies that these phrases include the year 2007 because according to the relevant rules of the Mainland law, when “prior to” and “subsequent to” are used in legislative language in connection with a specific figure or year, the figure or year itself is included.
- (2) Regarding the phrase “if there is a need” to amend the methods contained in the two Annexes, it means that the provisions may be amended or remain unchanged. This is to have regard to the fact that constitutional development must be in accordance with the actual situation in Hong Kong and that progress must proceed in a gradual and orderly manner on the basis of balanced participation.
- (3) The interpretation also deals with the question who is to determine “if there is a need [to amend]” and who is to introduce the bills on amendments. Having regard to what the Chief Executive has said about the power and responsibility of the Central People’s Government in respect of any change of the political structure of the HKSAR, and taking into account that constitutional

development of Hong Kong is not a matter that Hong Kong can deal with on its own - there must be consensus between 2/3 of the members of LegCo, the Chief Executive and the CPG for the amendment to be made; the Interpretation lays down the procedure that the Chief Executive must submit a report to the CPG for a determination whether in light of the actual situation in the HKSAR and in accordance with the principle of gradual and orderly progress an amendment should be made. I understand that some people reacted strongly to this provision. However, the reality is that no amendment can be made if any of the three parties mentioned in Article 7 of Annex I and in Article III of Annex II withhold its consent to the change and until all the steps set out in these articles have been complied with, the amendment will not be effective. In submitting his report, the Chief Executive must provide the CPG with adequate information, regarding the actual situation in Hong Kong and, inter alia, the wishes of the people, to enable it to make a decision. I would like to emphasize that at this stage, the Chief Executive would not be submitting any options for amendment as the CPG will only deal with whether or not there is a need for amendment.

Any bill relating to political structure, including the amendment of the methods of election, must be introduced by the HKSARG.

- (4) Finally, except that specific provision is made for selection or election of the first term Chief Executive, the other provisions contained in Annex I are not restricted to any particular term. Therefore if no amendment is made, the same provision may apply to the year subsequent to 2007. Regarding Annex II, the Interpretation said that if there is no amendment, the provisions relating to the method for forming the third term of the Legislative Council in Annex II and the procedures for voting on bills and motions contained therein shall continue to apply so that there will be no lacuna if no change is effected.

Thank you, ladies and gentlemen.