



Overview of the implementation of the Basic Law in the HKSAR¹



4 April 2005 marks the 15th anniversary of the promulgation of the Basic Law of the HKSAR which was adopted by the Seventh National People's Congress of the People's Republic of China at its Third Session. It is opportune to review how the Basic Law has been implemented in the HKSAR since it came into effect on 1 July 1997. However, before we look at the implementation of the Basic Law in the HKSAR, it may be helpful to set out what challenges Hong Kong faced in the run-up to Reunification on 1 July 1997.

Pre-Reunification challenges

The Basic Law was adopted by the NPC on 4 April 1990. So far as the legal system was concerned, the underlying philosophy of the Basic Law was one of continuity. Hong Kong's legal system was an offshoot of England's common law system, which is based on the English language. China has a fundamentally different system, which is based on the Chinese language. No one doubted, therefore, that it would be a real challenge to turn the principle of continuity into a reality.



The Third Session of the Seventh National People's Congress

Continuity of laws

BL 160 provides that, upon the establishment of the HKSAR, the laws previously in force in Hong Kong shall be adopted as laws of the HKSAR, except for those which the NPCSC declares to be in contravention of the Basic Law. While BL 160 looked reassuring, the principle of continuity was at risk in two ways.

Firstly, the definition of "laws previously in force" did not include UK legislation that applied to Hong Kong. However, Hong Kong's law in many important areas was found in such legislation. For example, its laws relating to civil aviation, merchant shipping and copyright were all UK laws. In order to ensure continuity, the relevant laws were re-enacted as Hong Kong legislation before Reunification. As a result, there was no gap resulting from the disapplication of UK laws.

In February 1997, the NPCSC determined that 24 Ordinances (in whole or in part) contravened the Basic Law. Most of them were colonial relics that would not be missed. However, amongst those laws were the Ordinance relating to the election of members of the Legislative Council, and parts of the Public Order Ordinance (Cap 245) and the Societies Ordinance (Cap 151). Their non-adoption would create important gaps in our law that would need to be filled. Those gaps were, however, filled by new legislation that was enacted immediately, or shortly, after Reunification. The HKSAR therefore started life with a complete set of domestic laws.

¹ This article is adapted (with updates) from the speech of the Solicitor General delivered at a Conference on the Bicentenary of the French Civil Code at the City University of Hong Kong on 9 November 2004.

Language

When the Sino-British Joint Declaration was signed in 1984, all of Hong Kong's hundreds of Ordinances were expressed only in English. The Basic Law allows English to continue to be used in the law, in addition to Chinese. It does not, however, envisage that English alone may be used (BL 9). It was therefore decided that, before Reunification, all Hong Kong laws should be bilingual, and all of Hong Kong courts should be able to operate in either English or Chinese.

The process of producing an authentic Chinese text for hundreds of Ordinances was indeed challenging. Given the many obscure English terms used in the law, many new Chinese expressions had to be invented. Nonetheless, the Herculean task, which lasted about ten years, was finished shortly before Reunification. In addition, starting from 1989, all new legislation has been produced in a bilingual form.

Legislation was also passed enabling all courts to operate in either English or Chinese, at the choice of the court itself. Even where English is used, translation to and from Chinese is of course available where a party or a witness needs it.

Application of Mainland laws

BL 18 provides that national laws shall not be applied in the HKSAR except for those listed in Annex III to the Basic Law. Annex III contains a short list of national laws in such areas as nationality, diplomatic privileges and immunities, the territorial sea, and the national flag. Those laws would not have a major impact on our legal system. Hong Kong's legal system would, for most purposes, be entirely distinct from that on the Mainland.

The courts

When the Basic Law was promulgated on 4 April 1990, the final venue of appeal for cases heard in Hong Kong was the Privy Council in London. That position clearly could not survive Reunification. The Basic Law provides that a Court of Final Appeal should be established in Hong Kong (BL 81), and that judges from other common law jurisdictions may as required be invited to sit on that court (BL 82). The challenge, which proved to be a difficult one, was to establish a court that would be ready to operate on 1 July 1997 at the latest, and possibly earlier.

There were two serious difficulties. The first was the composition of the court. BL 82 provides that the CFA may invite judges (in the plural) from other common law jurisdictions to sit on it. The question was how was this provision to be implemented? In September 1991, the Sino-British Joint Liaison Group (the "Joint Liaison Group") decided that, for each hearing, the court should consist of the Chief Justice, three permanent judges, and a fifth judge who could either be a judge from another common law jurisdiction or a retired Hong Kong judge.

This formula, which became known as the "4+1" formula, was highly controversial. Opponents argued that it breached the Basic Law, since the Basic Law says that the court may invite overseas "judges" (in the plural) to sit on it. Those defending the formula said that it would allow overseas judges (in the plural) to be invited, but only one at a time. In December 1991, the Legislative Council passed a motion rejecting the formula. This meant that legislation to establish the court on the basis of the "4+1" formula then stood no chance of being passed.

The second difficulty was that the Chinese side of the Joint Liaison Group did not want the CFA

established before Reunification. The British side, on the other hand, wanted the court established as soon as possible, so that it could gain experience and credibility well before Reunification.

For a few years, these two difficulties prevented any progress. Finally, in 1995, there was a breakthrough on the second issue. It was agreed that the legislation to establish the court could be passed before Reunification, but that it should only come into effect on 1 July 1997. A majority of the Legislative Council was then persuaded to adopt the “4+1” formula, and the relevant legislation was enacted in August 1995. The remaining challenge was to ensure that local and overseas judges of the highest calibre would be appointed as judges of the CFA on 1 July 1997.

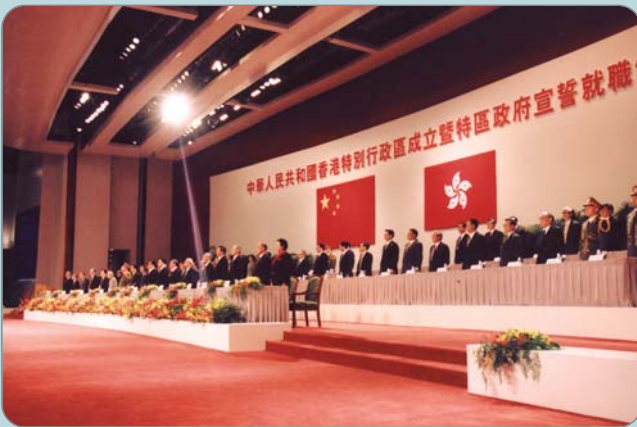
International rights and obligations

No legal system operates in a vacuum. Each jurisdiction is part of a complex web of multilateral and bilateral treaties. Before Reunification, over 200 multilateral agreements, and a large network of bilateral agreements, had been extended to Hong Kong by the UK. If nothing were done, Hong Kong would lose the benefit of all these agreements when British administration of Hong Kong ceased on Reunification.

The multilateral agreements were of particular importance to Hong Kong’s status as an international trade and financial centre. A sub-group of the Joint Liaison Group worked on the idea that China should take over those multilateral agreements in respect of Hong Kong, and on the mechanism for doing so. That work succeeded and, as a result, Hong Kong continues to participate in many international organizations, such as the World Trade Organization, the World Customs Organization, and the International Maritime Organization.

The position in respect of bilateral agreements was different. It was not possible for bilateral agreements entered into by the UK to be transferred to China. It therefore became apparent that the network of agreements in such areas as extradition, air services, and mutual legal assistance would all fall away on Reunification. The challenge was to replace them with new ones as soon as possible. The Joint Liaison Group again proved to be the key to this process. Under an agreement reached in the Joint Liaison Group, Hong Kong was authorised to sign new bilateral agreements in the areas mentioned above, and those agreements would be recognized after 1997. As a result of that agreement, negotiations for new bilateral agreements began and, by the time of Reunification, Hong Kong had concluded more than 10 air services agreements, a handful of fugitive offenders agreements and one mutual legal assistance agreement.





The Inauguration Ceremony on 1 July 1997

Post-Reunification challenges

One could say, in general terms, that having to operate under a new constitution is one of the many challenges which the HKSAR has faced since Reunification. Before Reunification, the colonial constitutional instruments were brief and rather antiquated. In contrast, the Basic Law is a detailed, modern constitution that creates many justiciable rights that did not previously exist.

Hong Kong's legal system and the legal profession have in general adapted to this new order without great difficulty. There are, of course, a few areas of controversy. But, as a general rule, the Basic Law has been smoothly implemented.

Filling the gaps

At the working level, the challenges have arisen in a number of specific areas. The immediate task, on 1 July 1997, was to ensure that there were no gaps – that nothing fell between the cracks of the transition.

Appointments to the judiciary made by the British administration all lapsed on 30 June 1997. The CE therefore needed to make new appointments, in accordance with the recommendations of the Judicial Officers Recommendation Commission. That Commission recommended the re-

appointment of all judges serving on 30 June 1997, and the CE duly re-appointed them on the morning of 1 July 1997.

So far as the CFA was concerned, appointments were made not only of a Chief Justice and three permanent judges of the highest calibre, but also of a panel of overseas judges and retired Hong Kong judges that inspired the greatest confidence. The overseas judges included, for example, a retired Chief Justice of Australia, and a serving member of the Privy Council.

As a result of all these, the courts were fully functioning on 2 July 1997. However, all the plans for the continuity of the legal system were called in question on that day. The lawyers defending a person who had been charged before Reunification with a common law offence argued that the proceedings could not continue. They argued that the common law no longer applied in Hong Kong, and that proceedings originally brought in the name of Her Majesty the Queen could not be continued in the HKSAR. The arguments were rejected by the court.

Adaptation of laws

Another step taken to ensure continuity was the enactment, in the early hours of 1 July 1997, of the Reunification Ordinance. This provided for continuity in various areas – such as existing legal proceedings and the public service. It also incorporated principles of statutory interpretation laid down by the NPCSC in February 1997. Under those principles, terminology in laws previously in force that reflected the former British administration of Hong Kong is now interpreted in a way that reflects the new constitutional order. For example, references to the Governor of Hong Kong are interpreted as references to the CE of the HKSAR. Those principles have proved very useful. But it

was nevertheless important that the old colonial terminology should be replaced by appropriate new terminology through legislative amendments. The Government therefore initiated an “adaptation of laws” exercise.

That exercise has not been as easy as it might seem. Replacing ‘the Governor’ by ‘the Chief Executive’ may be simple. But there are not always such convenient substitutions. References to ‘the Crown’ have proved particularly difficult, since it is a concept peculiar to the British constitution. Nevertheless, a steady stream of adaptation Bills were prepared and passed by the Legislative Council. The process is not yet complete – but about 93% of the Ordinances have been adapted.



Ceremonial Opening of Legal Year 2005

Bilingualism

The challenge of creating a bilingual legal system is an ongoing process. Everyone agrees that the quality of the administration of justice must not be compromised by the greater use of Chinese. Nevertheless, the figures indicate that Chinese is being increasingly used in the courts, particularly

at the lower levels. The figures as at the end of December 2004 on the use of Chinese in court cases are as follows :

Magistracies	- over 70%
District Court	- over 20%
CFI	- nearly 60% in appeals and over 20% in criminal and civil cases
CA	- nearly 30%

NPCSC Interpretation

An issue that aroused passionate debate both in Hong Kong and elsewhere is the interpretation power of the NPCSC. Under BL 158, the ultimate power to interpret the Basic Law is vested in the NPCSC. Hong Kong courts are authorised to interpret the Basic Law in adjudicating cases, although in certain cases they must seek an interpretation by the NPCSC before deciding a case.

The NPCSC is a legislative, not a judicial, body. Lawyers trained in the common law tradition may be uncomfortable with the idea of a legislative body interpreting the law. But BL 158 reflects the Chinese Constitution. All national laws on the Mainland are subject to interpretation by the NPCSC. However, this type of interpretation does not occur as part of judicial proceedings. It is a type of clarification of the relevant legislation, and is therefore described as “legislative interpretation”.

Since Reunification, the NPCSC has on two occasions interpreted provisions in the Basic Law. In 1999, the CE requested an interpretation by the NPCSC of provisions relating to the right of abode in Hong Kong of Chinese citizens born in the

Mainland. This followed a CFA interpretation that was causing insurmountable problems for Hong Kong. It was estimated that the effect of the court's interpretation was that, within ten years, about 1.67 million people born in the Mainland would have the right to live in Hong Kong. That could have meant a 25% increase in Hong Kong's population.

Faced with this massive immigration problem, and being unable to solve the problem in Hong Kong, the CE sought assistance from the CPG which in turn sought an interpretation by the NPCSC. The NPCSC confirmed that the provisions in the Basic Law were to be interpreted narrowly. The immigration problem was therefore solved.

Some lawyers claimed that the request for the NPCSC's interpretation was unconstitutional. However, the CFA itself rejected that claim, deciding in a subsequent case that the interpretation was valid and binding on Hong Kong courts.

The other interpretation of the Basic Law by the NPCSC occurred in April 2004, and was not the result of any request from Hong Kong. It related to the provisions in the Basic Law concerning Hong Kong's constitutional development. There were few, if any, allegations that the interpretation was unconstitutional. Some did allege that it was contrary to Hong Kong's high degree of autonomy. However, it is clear that our high degree of autonomy does not preclude the NPCSC's power of interpretation. As one American constitutional law expert has said, it is not surprising that the Basic Law, which is a national law of China, should be subject to interpretation by a national body.

Article 23 of the Basic Law

Another cause of passionate debate has been BL 23. Since Hong Kong is part of China, there is a need for laws in Hong Kong that protect China's national security. Instead of applying Mainland laws on this subject, the Basic Law provides that Hong Kong shall, on its own, enact relevant laws. Proposals for such laws were set out in a public consultation paper issued by the HKSARG in September 2002. The Government emphasized that the new laws would need to comply with the human rights guarantees in the Basic Law. Indeed, an opinion was obtained from a London Queen's Counsel, who specialises in human rights, to the effect that the proposals were consistent with those rights.

The public consultation exercise nevertheless revealed strong concerns about some of the proposals. As a result, the proposals were restricted in many ways before they were incorporated in the draft legislation. For example :

- the offence of treason was limited to times of war or the instigation of an armed invasion;
- an express provision was added, requiring the laws to be interpreted in accordance with the ICCPR;
- trial by jury was to be available for all offences.

After being introduced into the Legislative Council, the Bill was scrutinised by a committee in meetings lasting over eighty hours. Over one hundred individuals or non-governmental organizations made representations to that committee. More than ninety papers relating to the Bill were prepared by the Government for legislators.

As a result of that process, the Government agreed to further restrictions on the provisions. However, despite assurances that the Bill would not undermine human rights, public concern grew. On 1 July 2003, more than half a million people took to the streets in protest against many things, including the proposed legislation.

In the face of this concern, the Government announced three further liberalisations. However, even those amendments were not sufficient to ensure the passage of the Bill. Eventually, in September 2004, the CE announced that the Bill would be withdrawn.

The challenge of enacting national security legislation has, so far, proved too difficult. The reasons probably include the following. The approach to national security issues in the Mainland in the past has caused concern in Hong Kong.

The suspicion may have been fuelled by the process adopted. The Government's attempt to complete the whole project – from consultation paper to enactment – in less than twelve months was ambitious. Its decision not to carry out a separate consultation exercise in respect of a draft Bill led to accusations of high-handedness. And its refusal to extend the timetable because of the impact that SARS – Severe Acute Respiratory Syndrome – had on Hong Kong was regarded as insensitive.

There is, as yet, no timetable for the resurrection of this project but the Government has promised to learn from its experience. The implementation of BL 23 will, however, be one of the greatest challenges in the implementation of 'one country, two systems'.

New bilateral agreements

As mentioned above, bilateral agreements applied to Hong Kong by the UK all fell away on Reunification, but Hong Kong had been authorised to enter into new bilateral agreements.

That process is an ongoing one – the challenge being to create an adequate network of agreements with jurisdictions we most need to deal with. In the absence of this, Hong Kong could, for example, become a haven for fugitives from the law of other jurisdictions. The progress has been good. As at the end of December 2004, the figures for relevant bilateral agreements are as follows –

Surrender of Fugitive Offenders	13
Transfer of Sentenced Persons	7
Mutual Legal Assistance in Criminal Matters	16

Legal co-operation with the Mainland

As well as developing legal arrangements with other countries, Hong Kong has, of course, to develop those arrangements with the Mainland. Historically, there have been few of these. Before Reunification, arbitral awards made in Hong Kong were enforceable in the Mainland, and vice versa, by virtue of the New York Convention. They ceased to be enforceable after Reunification, because the Convention applies only between separate countries. Since Hong Kong markets itself as a regional centre for dispute resolution, this development was a cause of great concern.

The problem was, however, short-lived. In June 1999, an agreement was reached with the Mainland for the mutual enforcement of arbitral awards, and this came into effect in February 2000. As a result,

Hong Kong continues to develop as one of the leading centres for international and domestic arbitration.

In most other areas, there are still no arrangements with the Mainland. For example, there is no arrangement for the surrender of fugitives and no arrangement for the reciprocal enforcement of judgments. Talks have begun in both areas. However, the differences between the two legal systems are such that, even if agreement is reached, it may be difficult to enact the necessary legislation unless the arrangements are hedged around with adequate safeguards.

Legal services in the Mainland

The fact that the two legal systems are fundamentally different also means that there is no prospect that a legal qualification in one jurisdiction will be recognised in the other. However, it is now possible for a Hong Kong lawyer to become qualified in the Mainland, and vice versa.

Moreover, Hong Kong law firms are able to set up representative offices in the Mainland. As a result of the Mainland and Hong Kong Closer Economic Partnership Arrangement, local lawyers have certain advantages over foreign lawyers when it comes to providing legal services in the Mainland. For example, a representative office of a Hong Kong firm (but not of a foreign firm) can enter into an association with a Mainland law firm.

As the Mainland's economy continues to expand dramatically, there is a great demand for sophisticated legal services there. Many Hong Kong lawyers are taking up that challenge and, in so doing, can contribute to the development of legal services in the Mainland.



Signing of a Legal Services Co-operation Agreement between the Department of Justice and Zhejiang Justice Bureau

Future challenges

The implementation of 'one country, two systems' is, of course, an ongoing and evolving process. As well as unfinished business in some areas, new issues are bound to arise. In order that we can resolve problems in a constructive manner, there needs to be understanding and co-operation between Hong Kong and the Mainland.

Ever since Reunification, the Department of Justice has been seeking to develop mutual legal understanding in many ways. There has been a regular flow of legal visits in both directions; government lawyers from each jurisdiction have attended courses in the law of the other jurisdiction; mock trials have been conducted in Mainland cities to demonstrate how civil and criminal proceedings are conducted in Hong Kong; and a series of co-operation agreements have been signed with the departments of justice in various Mainland cities. The Law Society and the Bar Association have also been active in developing understanding and ties with Mainland lawyers.

In so far as the Basic Law guarantees the maintenance of Hong Kong's common law system, the rule of law and the independence of the judiciary, it has been an unqualified success. The more challenging issues have tended to arise from the interface between the two legal systems. Examples include NPCSC's power of interpretation, the implementation of BL 23, the proposed arrangements for the surrender of fugitive offenders and the reciprocal enforcement of judgments. In each of these areas, we must strive to implement 'one country, two systems' in a way that preserves the core values of our legal system. These core values include the rule of law, the independence of the judiciary, the protection of fundamental

human rights, and the integrity and quality of our legal system. Such core values remain intact more than seven years after Reunification. They will remain intact as we seek to resolve outstanding, and new, issues that confront our legal system.



SIDELIGHTS

Members of the Committee for the Basic Law of the Hong Kong Special Administrative Region under the Standing Committee of the National People's Congress¹

Chairman	Qiao Xiaoyang		
Vice-Chairman	Wong Po Yan		
Members	Wang Guangya Liu Zhen Li Fei Xia Yong	Wu Wai Yung Chen Zuoer Ng Hong Mun	Albert, Chen Hung Yee Anthony Francis Neoh Maria, Tam Wai Chu

¹ Adopted at the 1st Meeting of the Standing Committee of the Tenth National People's Congress on 19 March 2003.



External affairs



In international events such as the Olympics, we often see the regional flag of the HKSAR flying in front of TV cameras. To what extent can this little place we call home take part in international organizations and events? While the world's limelight was on China at its accession to the World Trade Organization in 2001, do you know if the HKSAR is on its own a full member of the organization? And how far can the HKSAR handle external affairs? This article gives you the answers.

BL 13

BL 13 provides that the CPG shall be responsible for foreign affairs relating to the HKSAR, and that the CPG authorizes the HKSAR to conduct relevant external affairs on its own in accordance with the Basic Law.

Furthermore, BL 13 provides that the Ministry of Foreign Affairs of the PRC shall establish an office in Hong Kong to deal with foreign affairs. The office is the Office of the Commissioner of the Ministry of Foreign Affairs of the PRC in the HKSAR. It also acts as a channel for communications between the CPG and the HKSARG on the relevant matters.

Chapter VII of the Basic Law

The handling of external affairs of the HKSAR is elaborated in various chapters of the Basic Law, in particular, Chapter VII which is entitled "External Affairs".

Entering into international agreements and participating in international organizations

One important provision in Chapter VII is BL 151, under which the HKSAR may on its own, using the name "Hong Kong, China", maintain and develop relations and conclude and implement agreements with foreign states and regions and relevant international organizations in appropriate fields, including the economic, trade, financial and monetary, shipping, communications, tourism, cultural and sports fields. This provision is the basis of authority for the HKSAR to conclude international agreements and join international organizations.¹

BL 152 stipulates that representatives of the HKSARG may, as members of delegations of the PRC, participate in international organizations or conferences in appropriate fields limited to states and affecting the HKSAR, or may attend in such other capacity as may be permitted by the CPG and the international organization or conference concerned, and may express their views, using the name "Hong Kong, China". These international organizations include the International Monetary Fund, the World Intellectual Property Organization, the International Civil Aviation Organization and the International Telecommunication Union.

In regard to international organizations and conferences which are not limited to states, the HKSAR may participate using the name "Hong Kong, China". Accordingly, the HKSAR participates on its own as a full member in such international organizations and conferences as the

¹ A list of international organizations in which the HKSAR participates may be found at www.info.gov.hk/cab/topical/bottom4.htm.

World Trade Organization, the World Customs Organization, the Asia-Pacific Economic Cooperation and the Asian Development Bank. BL 116 specifically authorizes the HKSAR to participate in relevant international organizations and international trade agreements such as the General Agreement on Tariffs and Trade (now the World Trade Organization)².

BL 152 also provides that the CPG shall take the necessary steps to ensure that the HKSAR shall continue to retain its status in an appropriate capacity in those international organizations of which the PRC is a member and in which Hong Kong participates in one capacity or another. On the other hand, as regards those international organizations in which Hong Kong is a participant in one capacity or another, but of which the PRC is not a member, the CPG shall, where necessary, facilitate the continued participation of the HKSAR in an appropriate capacity in such organizations.

Many treaties that applied to Hong Kong before Reunification continue to apply to the HKSAR. A number of treaties that did not apply to Hong Kong before Reunification have since applied to the HKSAR. An updated list of treaties that are in force and are applicable to the HKSAR may be found



at www.legislation.gov.hk/interlaw.htm. The list also identifies treaties that do not apply to the Mainland.

Agreements and arrangements for the establishment of international organizations in the HKSAR

Since Reunification, the CPG in consultation with the HKSARG has entered into agreements and arrangements with several international organizations regarding the maintenance of offices by the latter in the HKSAR and the conferment of certain privileges and immunities on these offices.

These international organizations are: the Commission of the European Communities, the Bank for International Settlements, the International Monetary Fund, the International Bank for Reconstruction and Development and the International Finance Corporation. These agreements and arrangements (including some administrative arrangements made by the HKSAR) have been gazetted, and may be found at www.legislation.gov.hk/table7ti.htm.

Bilateral agreements and arrangements

As at the end of 2004, there are 137 binding bilateral agreements between the HKSAR and some 60 countries throughout the world. The major topics which these agreements cover are air services³, investment promotion and protection, surrender of fugitive offenders⁴, mutual legal assistance in criminal matters, transfer of sentenced persons, and avoidance of double taxation.

Apart from binding agreements, the HKSAR from time to time enters into non-binding arrangements

² See *Sidelights* at p 24 for more information on the World Trade Organization.

³ See *Sidelights* at p 23 for more information on such agreements.

⁴ In this regard, BL 96 (in Chapter IV) provides that with the assistance or authorization of the CPG, the HKSARG may make appropriate arrangements with foreign states for reciprocal juridical assistance.

with other countries, territories or organizations. These arrangements are often in the form of a memorandum of understanding. They cover a wide spectrum of topics including visa abolition, customs cooperation, information technology, environmental protection and cultural co-operation.

More information on HKSAR's bilateral agreements and arrangements on major topics may be found at www.legislation.gov.hk/choice.htm.

Application and implementation of international agreements

BL 153 in Chapter VII deals with the application of international agreements to the HKSAR and their implementation. The views of the HKSARG will be sought before international agreements to which the PRC is a party (or becomes a party) are applied to the HKSAR by the CPG. International agreements to which the PRC is not a party but which are implemented in Hong Kong may continue to be implemented in the HKSAR. The CPG shall, as necessary, authorize or assist the HKSARG to make appropriate arrangements for the application to the HKSAR of other relevant international agreements.

The implementation of international agreements is further discussed in the *Sidelights* at pp14 – 15.

Economic and trade missions and foreign consular missions

Chapter VII enables the HKSAR to establish abroad its own economic and trade missions (BL 156), and there are 10 such offices in eight foreign countries.

The establishment in the HKSAR of foreign consular and other official or semi-official missions

is also provided for in BL 157. There are some 110 such missions in the HKSAR.

Under BL 157, the establishment of foreign consular and other official or semi-official missions in the HKSAR requires the approval of the CPG, and consular and other official missions established in Hong Kong by states which have formal diplomatic relations with the PRC may be maintained. According to the circumstances of each case, consular and other official missions established in Hong Kong by states which have no formal diplomatic relations with the PRC may be permitted either to remain or be changed to semi-official missions. States not recognized by the PRC may only establish non-governmental institutions in the HKSAR.

Travel documents

In accordance with BL 154⁵ and the Hong Kong Special Administrative Region Passports Ordinance (Cap 539), the HKSARG issues the passports of the Hong Kong Special Administrative Region to all Chinese citizens who hold HKSAR permanent identity cards. Under BL 154, the HKSARG is also authorized to issue other travel documents. More information on the issue of such passports and travel documents is set out in the *Sidelights* at p20.



⁵ BL 154 : "The [CPG] shall authorize the [HKSARG] to issue, in accordance with law, passports of the [HKSAR] of the [PRC] to all Chinese citizens who hold permanent identity cards of the Region, and travel documents of the [HKSAR] of the [PRC] to all other persons lawfully residing in the Region ...".