

The Basic Law –

Best Safeguard for the Prosperity and Stability of Hong Kong

On April 4, 1990, the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (the Basic Law) was adopted by the Seventh National People's Congress (NPC) of the People's Republic of China (PRC). The Basic Law enshrines the basic policies of the PRC regarding the Hong Kong Special Administrative Region (HKSAR) and provides a solid constitutional basis for the implementation of "One Country, Two Systems". Looking back, we must not forget the purpose and mission of the Basic Law.

The Basic Law clearly states that Hong Kong has been part of the territory of China since ancient times and is an inalienable part of the PRC. It is a Special Administrative Region enjoying a high degree of autonomy under the Central People's Government. Upholding national unity and territorial integrity, maintaining the prosperity and stability of Hong Kong, and taking account of history and realities, the "One Country, Two Systems" principle was put forth by Mr Deng Xiao-ping as a way to preserve the characteristics and strengths of Hong Kong as much as possible and to enable Hong Kong citizens to maintain their way of life.

In the 22 years since her return to the motherland, Hong Kong has weathered different challenges and, on the whole, the implementation of “One Country, Two Systems” has been successful. Leveraging on our strengths in free market economy, rule of law, independent judiciary and the free flow of information and with our country’s strong support, Hong Kong has developed into an international financial, trade and transportation centre and attracted more than 9,000 overseas and Mainland companies to establish offices here, with many of them making Hong Kong as their regional headquarters in Asia-Pacific.

International financial centre

Article 109 of the Basic Law confirms Hong Kong’s status as an international financial centre and stipulates that the Government of the HKSAR shall provide an appropriate economic and legal environment for the maintenance of such status. Specifically, under the Basic Law –

- The Hong Kong dollar is the legal tender of the HKSAR and the linked exchange rate system has been maintained. With the strong support of the Central Government, Hong Kong has been able to maintain financial stability even during turbulent times. Riding on our country’s reform and opening up, Hong Kong has also developed into the world’s largest offshore Renminbi centre.
- The free flow of capital is protected and has attracted a large number of

foreign direct investment and companies using Hong Kong as an ideal platform for IPOs and fund raising. Over the past ten years, Hong Kong has topped the annual global IPO rankings six times.

- Hong Kong maintains a simple and low tax system, which is key to Hong Kong's success as an international financial, trading and business centre. The HKSAR Government is free to implement tax measures according to policy needs under its independent tax system. Since I took office, I have put in place initiatives such as the two-tier profits tax system and tax deduction for research and development expenditure to enhance Hong Kong's competitiveness.

Rule of law and independent judiciary

The Basic Law preserves and guarantees Hong Kong's long-established and trusted common law system and allows the HKSAR to enjoy independent judicial power, including that of final adjudication. The rule of law and an independent judiciary, which are held dearly by Hong Kong people, are constitutionally protected. The Basic Law stipulates that judges shall be appointed by the Chief Executive on the recommendation of an independent commission; for the appointment of judges of the Court of Final Appeal (CFA) and the Chief Judge of the High Court, the Chief Executive shall obtain the endorsement of the Legislative Council and report such appointment to the Standing Committee of the NPC for the record. Last month, I accepted the

recommendation of the Judicial Officers Recommendation Commission to appoint the Honourable Mr Justice Andrew Cheung Kui-nung, Permanent Judge of the CFA to succeed The Honourable Chief Justice Geoffrey Ma who will retire next year.

The Basic Law also allows the CFA to draw on the experience of judges from other common law jurisdictions. Currently, 15 eminent judges from the United Kingdom, Australia and Canada are sitting on the CFA as non-permanent judges. Their participation shows that our rule of law and independent judiciary are well recognized.

Rights and freedoms of residents

The fundamental rights and freedoms of Hong Kong residents are fully protected by the Basic Law. Under Chapter 3, Hong Kong residents shall have freedom of speech, of the press and of publication; freedom of association, of assembly, of procession and of demonstration; freedom of the person; freedom of communication; freedom of religious belief; freedom of choice of occupation; freedom to engage in academic research, literary and artistic creation, and other cultural activities; freedom of marriage, etc. However, as pointed out by our courts in their judgments, freedom is not absolute; one should respect the rights and freedoms of other people and be subject to law when exercising such freedoms.

Developing external affairs

Hong Kong has always been a bridge between the East and the West. The Basic Law allows the HKSAR to maintain and develop relations with foreign states and regions and relevant international organisations in the appropriate fields, including economic, trade, financial and monetary, shipping, communications, tourism, cultural and sports fields on its own, using the name “Hong Kong, China”. The HKSAR has participated in the World Trade Organization, the World Meteorological Organization, the Asia-Pacific Economic Cooperation and many others in the name “Hong Kong, China” and has entered into hundreds of bilateral agreements with other countries, including Free Trade Agreements, Investment Promotion and Protection Agreements and Comprehensive Double Taxation Agreements. Hong Kong athletes can also represent Hong Kong in international competitions.

The implementation of “One Country, Two Systems” fully demonstrates that it is the best institutional arrangement to maintain Hong Kong’s long term prosperity and stability. As a pioneering initiative, its application entails an evolving process and we have to effectively and fully apply this principle in order to maintain the prosperity and stability of Hong Kong, to meet the aspirations of our citizens and to meet the fundamental interests of our country. I encourage all Hong Kong citizens to learn more about the Basic Law, including

the institutional safeguards, and the rights and duties of Hong Kong residents. In so doing, we should consider how best we can continue to leverage on Hong Kong's advantages, allowing Hong Kong to advance with the country and enabling every Hong Kong resident to realise their goal.

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