

*** The Interpretation by the Standing Committee of the National People's Congress of Articles 22(4) and 24(2)(3) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China**

(Adopted at the Tenth Session of the Standing Committee of the Ninth National People's Congress on 26 June 1999)

The Standing Committee of the Ninth National People's Congress examined at its Tenth Session the "Motion Regarding the Request for an Interpretation of Articles 22(4) and 24(2)(3) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China" submitted by the State Council. The motion of the State Council was submitted upon the report furnished by the Chief Executive of the Hong Kong Special Administrative Region under the relevant provisions of Articles 43 and 48(2) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China. The issue raised in the Motion concerns the interpretation of the relevant provisions of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China by the Court of Final Appeal of the Hong Kong Special Administrative Region in its judgment dated 29 January 1999. Those relevant provisions concern affairs which are the responsibility of the Central People's Government and concern the relationship between the Central Authorities and the Hong Kong Special Administrative Region. Before making its judgment, the Court of Final Appeal had not sought an interpretation of the Standing Committee of the National People's Congress in compliance with the requirement of Article 158(3) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China. Moreover, the interpretation of the Court of Final Appeal is not consistent with the legislative intent. Therefore, having consulted the Committee for the Basic Law of the Hong Kong Special Administrative Region under the Standing Committee of the National People's Congress, the Standing Committee of the National People's Congress has decided to make, under the provisions of Article 67(4) of the Constitution of the People's Republic of China and Article 158(1) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, an interpretation of the provisions of

Articles 22(4) and 24(2)(3) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China as follows:

1. The provisions of Article 22(4) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China regarding "For entry into the Hong Kong Special Administrative Region, people from other parts of China must apply for approval" mean as follows: People from all provinces, autonomous regions, or municipalities directly under the Central Government, including those persons of Chinese nationality born outside Hong Kong of Hong Kong permanent residents, who wish to enter the Hong Kong Special Administrative Region for whatever reason, must apply to the relevant authorities of their residential districts for approval in accordance with the relevant national laws and administrative regulations, and must hold valid documents issued by the relevant authorities before they can enter the Hong Kong Special Administrative Region. It is unlawful for people from all provinces, autonomous regions, or municipalities directly under the Central Government, including persons of Chinese nationality born outside Hong Kong of Hong Kong permanent residents, to enter the Hong Kong Special Administrative Region without complying with the appropriate approval procedure prescribed by the relevant national laws and administrative regulations.

2. It is stipulated in the first three categories of Article 24(2) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China that the "permanent residents of the Hong Kong Special Administrative Region shall be:

- (1) Chinese citizens born in Hong Kong before or after the establishment of the Hong Kong Special Administrative Region;
- (2) Chinese citizens who have ordinarily resided in Hong Kong for a continuous period of not less than seven years before or after the establishment of the Hong Kong Special Administrative Region;
- (3) Persons of Chinese nationality born outside Hong Kong of those residents listed in categories (1) and (2);".

The provisions of category (3) regarding the “persons of Chinese nationality born outside Hong Kong of those residents listed in categories (1) and (2)” mean both parents of such persons, whether born before or after the establishment of the Hong Kong Special Administrative Region, or either of such parents must have fulfilled the condition prescribed by category (1) or (2) of Article 24(2) of the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China at the time of their birth. The legislative intent as stated by this Interpretation, together with the legislative intent of all other categories of Article 24(2) of the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China, have been reflected in the “Opinions on the Implementation of Article 24(2) of the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China” adopted at the Fourth Plenary Meeting of the Preparatory Committee for the Hong Kong Special Administrative Region of the National People’s Congress on 10 August 1996.

As from the promulgation of this Interpretation, the courts of the Hong Kong Special Administrative Region, when referring to the relevant provisions of the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China, shall adhere to this Interpretation. This Interpretation does not affect the right of abode in the Hong Kong Special Administrative Region which has been acquired under the judgment of the Court of Final Appeal on the relevant cases dated 29 January 1999 by the parties concerned in the relevant legal proceedings. Other than that, the question whether any other person fulfils the conditions prescribed by Article 24(2)(3) of the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China shall be determined by reference to this Interpretation.

Note:

* This is an English translation of the original instrument in Chinese, and is published for information.