

**Explanations on the Draft Decision of the National People's Congress
on Improving the Electoral System of
the Hong Kong Special Administrative Region**

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Wang Chen
Vice Chairman of the Standing Committee of
The National People's Congress

Deputies,

Entrusted by the Standing Committee of the National People's Congress (NPC), I hereby make the following explanations about the *Draft Decision of the National People's Congress On Improving the Electoral System of the Hong Kong Special Administrative Region* (SAR).

I. The imperative and importance of improving the electoral system of the Hong Kong SAR

The return of Hong Kong to the motherland put the region once again under the overall governance system of the country. The Constitution of the People's Republic of China and the Basic Law of the Hong Kong SAR of the People's Republic of China jointly form the constitutional basis of the Hong Kong SAR. The electoral system of the Hong Kong SAR, which includes the methods for the selection of the Chief Executive and for the formation of the Legislative Council, is an important part of the political structure of the Hong Kong SAR. The electoral system should conform to the policy of "one country, two systems", meet the realities in the Hong Kong SAR and serve to ensure "patriots administering Hong Kong". It should be conducive to safeguarding China's national sovereignty, security and development interests and help maintain the long-term prosperity and stability of Hong Kong. Since Hong Kong's return, the State has all along fully and faithfully implemented the principles of "one country, two systems",

“Hong Kong people administering Hong Kong” and a high degree of autonomy, and has administered Hong Kong affairs according to law, upheld the constitutional order in the Hong Kong SAR as established by the Constitution and the Basic Law, supported the development of democracy in the Hong Kong SAR and guaranteed the exercise of democratic rights by Hong Kong residents in accordance with the law. However, it must be noted that in recent years, especially after the turbulence over the amendment bill in 2019, anti-China, destabilizing forces and radical localists in Hong Kong have openly called for “Hong Kong independence”. They used the electoral platforms of the Hong Kong SAR and the deliberation platforms of the Legislative Council and the District Councils or their position as public servants to blatantly carry out anti-China and destabilizing activities. They resorted to every possible means to paralyze the functioning of the Legislative Council and obstruct the law-based administration of the Hong Kong SAR government. They masterminded and perpetrated the so-called “primary election”, in an attempt to obtain a majority in the Legislative Council so that they could step further to grab the power to administer Hong Kong. Some foreign countries and external forces, by way of their own legislative bills or administrative means and through their consular agencies and NGOs in the Hong Kong SAR and other channels, blatantly meddled with Hong Kong affairs. They also grossly imposed so-called “sanctions” on the relevant Chinese personnel and flagrantly emboldened and covered those anti-China, destabilizing forces in Hong Kong. These activities seriously jeopardized the constitutional order and the order of rule of law in the Hong Kong SAR. They posed a grave challenge to the authority of the Constitution, the Basic Law and the Law of the People’s Republic of China on Safeguarding National Security in the Hong Kong SAR. Such activities put China’s national sovereignty, security and development interests into serious jeopardy and severely disrupted social stability of the Hong Kong SAR. They must be resolutely opposed, and forceful measures must be taken to prevent and defuse risks arising therefrom.

The rioting and turbulence that occurred in the Hong Kong society reveals that the existing electoral system in the Hong Kong SAR has clear loopholes and deficiencies, which the anti-China, destabilizing elements jumped on to take into their hands the power to administer the Hong Kong SAR. To remedy the situation, necessary measures must be

taken to improve the electoral system and remove existing institutional deficiencies and risks to ensure the administration of Hong Kong by Hong Kong people with patriots as the main body. This in turn will ensure effective and law-based administration in the Hong Kong SAR and keep the implementation of “one country, two systems” always on the right track.

Back in June 1984, Mr. Deng Xiaoping pointed out that there must be “some requirements or qualifications with regard to the administration of Hong Kong affairs by the people of Hong Kong. It must be required that patriots form the main body of administrators”. According to him, “A patriot is one who respects the Chinese nation, sincerely supports the motherland’s resumption of exercise of sovereignty over Hong Kong, and wishes not to impair Hong Kong’s prosperity and stability.” Hong Kong has been a Chinese territory since ancient times. The Hong Kong SAR is an inalienable part of the People’s Republic of China, a local administrative region with a high degree of autonomy that directly comes under the Central People’s Government. “Patriots administering Hong Kong” is a necessary requirement of the “one country, two systems” policy. All provisions in the Basic Law regarding Hong Kong’s Chief Executive and those working in the executive authorities, the legislature and the judiciary reflect the principle of “Hong Kong people administering Hong Kong” with patriots as the main body. It is stipulated that the Chief Executive, principal officials, members of the Executive Council and of the Legislative Council, judges of the courts at all levels and other members of the judiciary in the Hong Kong SAR must uphold the Basic Law of the Hong Kong SAR and swear allegiance to the Hong Kong SAR of the People’s Republic of China. In a decision released in October 2019, the fourth plenary session of the 19th Central Committee of the Communist Party of China (CPC) called for upholding and improving the system and institutions of “one country, two systems”, improving the SAR’s institutions and mechanisms related to the implementation of the Constitution and the Basic Law, and upholding the “administration of Hong Kong by Hong Kong people” with patriots as the main body. On 27 January 2021, when listening to a 2020 work report from Chief Executive of the Hong Kong SAR, President Xi Jinping noted that Hong Kong’s major shift from chaos to stability has once again demonstrated the unfailing truth that to ensure

the steady practice of “one country, two systems” in Hong Kong in the long run, the principle of “patriots administering Hong Kong” must be always upheld. This is a fundamental principle crucial to the sovereignty, security and development interests of our country and crucial to the sustained prosperity and stability of Hong Kong. Only when the principle of “patriots administering Hong Kong” is observed can the Central Authorities’ overall jurisdiction over the SAR be effectively implemented, the constitutional order as established by the Constitution and the Basic Law be effectively maintained, and the various deep-seated problems be effectively resolved. Only in this way can Hong Kong achieve durable stability and make its due contributions to realizing national rejuvenation. The electoral system of the Hong Kong SAR, including the methods for the selection of the Chief Executive and for the formation of the Legislative Council, must strictly follow and fully reflect the political principle and criterion of the “administration of Hong Kong by Hong Kong people” with patriots as the main body and provide institutional safeguards for this purpose.

II. Overall requirements, important principles, basic approach, and the way to proceed for improving the electoral system of the Hong Kong SAR

The overall requirements for improving the electoral system of the Hong Kong SAR are: following the guidance of Xi Jinping Thought on Socialism with Chinese Characteristics for a New Era; fully implementing the guiding principles of the CPC’s 19th National Congress and the second, third, fourth and fifth plenary sessions of its 19th Central Committee; upholding and improving the system and institutions of “one country, two systems”; fully implementing, reflecting and carrying out the principle of “patriots administering Hong Kong” with proper mechanisms and institutions; keeping the power to administer firmly in the hands of those who love the country and love Hong Kong; and ensuring Hong Kong’s long-term stability and prosperity.

In implementing these overall requirements, it is imperative to observe the following important principles. First, fully and accurately implementing the principles of “one country, two systems”, “Hong Kong administer Hong Kong” and a high degree of autonomy. It is

imperative to uphold and improve the system and institutions of “one country, two systems”, and ensure the administration of Hong Kong by Hong Kong people with patriots as the main body. It is imperative to integrate adherence to the principle of “One Country” with respect for the differences of “Two Systems”, and combine upholding the Central Authorities’ overall jurisdiction over the SAR with safeguarding a high degree of autonomy in the SAR, so as to provide well-established systemic guarantee for “patriots administering Hong Kong”. Second, firmly upholding sovereignty, security and development interests of the State. It is imperative to ensure that the State takes firm control over the improvement of the electoral system of the Hong Kong SAR, fully implement the Law on Safeguarding National Security in the Hong Kong SAR, maintain overall social stability of the Hong Kong SAR, and resolutely prevent, stop and punish interference in Hong Kong affairs by foreign countries and external forces and their use of Hong Kong to conduct acts of secession, subversion, infiltration and sabotage. Third, administering Hong Kong in accordance with the law. It is imperative to maintain the constitutional order of the Hong Kong SAR enshrined in the Constitution and the Basic Law, improve the relevant electoral system and related mechanisms on the track of the Constitution and the Basic Law, and organize relevant elections in strict compliance with the Basic Law, the Law on Safeguarding National Security in the Hong Kong SAR, relevant decisions of the NPC and its Standing Committee as well as local laws of Hong Kong, so as to improve the ability and competence of governance in accordance with the law. Fourth, acting in line with the actual circumstances of Hong Kong. It is imperative to develop a system of democratic elections that fits Hong Kong’s actual conditions and reflects the overall interests of the society. It is imperative to guarantee in accordance with the law the extensive and balanced political participation of the Hong Kong compatriots, and guarantee in accordance with the law the right to vote and the right to be elected which are lawfully enjoyed by Hong Kong permanent residents. It is imperative to unite all that can be united, and build extensive, positive energy in the Hong Kong society. Fifth, improving the governance efficacy of the Hong Kong SAR. It is imperative to improve the system under which the Chief Executive is responsible to the Central People’s Government, and maintain the executive-led governance structure and operational system of the Hong Kong SAR. It is imperative to support the Chief Executive,

the executive authorities, the legislature and the judiciary in exercising power and performing duty in accordance with the law, so as to ensure the smooth and efficient operation of the political and governance systems and mechanisms of the Hong Kong SAR.

The overarching approach for improving the electoral system of the Hong Kong SAR is as follows: The overall design of the system will be centered around the reformation and greater empowerment of the Election Committee of the Hong Kong SAR. The size, composition and formation method of the Election Committee will be adjusted and improved. The Chief Executive will continue to be elected by the Election Committee. The Election Committee will be entrusted with the new function of electing a relatively large share of Legislative Council members and directly participating in the nomination of all candidates for the Legislative Council. Through the Election Committee, the balanced and orderly political participation will be expanded and broader representation ensured in the Hong Kong society. Relevant elements of the election will be adjusted as appropriate, and a mechanism of qualification review will be established throughout the entire process. This design is aimed to form a new democratic electoral system suited to Hong Kong's realities and with Hong Kong characteristics.

The existing electoral system in the Hong Kong SAR was established in accordance with relevant provisions of the Basic Law of the Hong Kong SAR, interpretations and decisions of the NPC Standing Committee, and relevant provisions of local laws in Hong Kong. Provisions of the Basic Law, including Articles 45 and 68, lay out the principles concerning the electoral system of the Hong Kong SAR, and Annex I and Annex II to the Basic Law as well as relevant amendments make specific and express stipulations. Based on comprehensive analysis and assessment, Central and State Authorities deem it necessary to revise and improve the electoral system of the Hong Kong SAR at the state level, mainly includes revising the method for the selection of the Chief Executive of the Hong Kong SAR and the method for the formation of the Legislative Council of the Hong Kong SAR. At the same time, in order to maintain continuity and stability of relevant systems of the Hong Kong SAR, the revisions to be made this time in improving the electoral system of the Hong Kong SAR may be limited to Annex I and Annex II to the Basic

Law, without revising the main body of the Basic Law. After serious consideration of various factors and discussions with relevant parties, central and state authorities propose a two-step approach, namely, “decision plus amendment”. In the first step, the NPC, in accordance with the relevant provisions of the Constitution, the Basic Law, and the Law on Safeguarding National Security in the Hong Kong SAR, makes the decision on improving the electoral system of the Hong Kong SAR, which lays out the basic principles for revising and improving the electoral system of the Hong Kong SAR as well as the core elements of such revision and improvement. Meanwhile, the NPC authorizes its Standing Committee to amend Annex I and Annex II to the Basic Law in accordance with the decision. In the second step, in accordance with the Constitution, the Basic Law, the Law on Safeguarding National Security in the Hong Kong SAR, and the NPC decision, the NPC Standing Committee amends Annex I: Method for the Selection of the Chief Executive of the Hong Kong Special Administrative Region and Annex II: Method for the Formation of the Legislative Council of the Hong Kong Special Administrative Region and Its Voting Procedures of the Basic Law of the Hong Kong SAR. The amended Annex I and Annex II will contain specific and express provisions on the new democratic electoral system of the Hong Kong SAR. After the amendment of Annex I and Annex II at the state level is completed, the Hong Kong SAR will amend relevant local laws accordingly.

At its 26th session on 27 and 28 February 2021, the Standing Committee of the 13th NPC heard and deliberated on the Report of the State Council on Revising and Improving the Electoral System of the Hong Kong Special Administrative Region and Relevant Recommendations. It endorsed the Report’s recommendations on revising and improving the electoral system of the Hong Kong SAR. On this basis, in accordance with relevant provisions of the Constitution, the Basic Law of the Hong Kong SAR, and the Law on Safeguarding National Security in the Hong Kong SAR as well as relevant decisions of the NPC and its Standing Committee, and in light of the actual conditions in the Hong Kong SAR, the Legislative Affairs Commission of the NPC Standing Committee drew up the Draft Decision of the National People’s Congress on Improving the Electoral System of the Hong Kong Special Administrative Region, which, after deliberation by the NPC Standing Committee, has been

submitted to the Fourth Session of the 13th NPC for deliberation.

III. Overview of the Draft Decision

The Draft Decision of the National People's Congress on Improving the Electoral System of the Hong Kong Special Administrative Region consists of an introduction and the main body. The introduction briefly explains the purposes and legal basis of the Decision. The relevant decision to be taken by the NPC is based on Article 31 and subparagraphs 2, 14 and 16 of Article 62 of the Constitution of the People's Republic of China and relevant provisions of the Basic Law of the Hong Kong SAR of the People's Republic of China and the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong SAR. It takes into full consideration the practical need for improving the relevant electoral system of the Hong Kong SAR and of the reality in the Hong Kong SAR. It will make a new constitutional arrangement for a set of institutions to improve the electoral system of the Hong Kong SAR and advance the democratic political system that fits Hong Kong's actual conditions. Such an institutional arrangement is in line with the stipulations and principles of the Constitution and the Basic Law of the Hong Kong SAR, and holds solid political and legal ground. It will help ensure that patriots form the main body of administrators in Hong Kong, and guarantee the sound and sustained implementation of "one country, two systems" in Hong Kong.

The main body of the Draft Decision lays out the basic principles for revising and improving the electoral system of the Hong Kong SAR as well as the core elements of such revision and improvement. At the same time, it authorizes the NPC Standing Committee to amend Annex I and Annex II to the Basic Law in accordance with this Decision. During deliberations on revising and improving the electoral system of the Hong Kong SAR, central and state authorities have thought through issues related to making this Decision and then amending Annex I and Annex II to the Basic Law, and have made arrangements accordingly. After the adoption of this Decision by the NPC, the NPC Standing Committee will work, pursuant to this Decision and in coordination with other competent authorities, to promptly launch the procedure of amending Annex I and Annex II to the Basic Law. Upon the promulgation and

entry into force of the amended Annex I and Annex II to the Basic Law, the previous Annex I, Annex II and their amendments will be repealed simultaneously.

The Draft Decision of the National People's Congress on Improving the Electoral System of the Hong Kong Special Administrative Region and the above Explanations are now submitted for deliberation.

Source: http://www.xinhuanet.com/english/2021-03/05/c_139788111.htm

Note:

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