

22 August 1987



Mr Chairman, Messrs Vice-Chairmen, and Members,

The sixth meeting of the Subgroup on Economy was held on 12-14 June 1987 in Guangzhou (and three members from Hong Kong and the mainland were absent with apologies). Members present unanimously agreed that the draft of Chapter 5 of the Basic Law: "The Economy of the Hong Kong Special Administrative Region (HKSAR)" should fully embody the basic policies expressed by the government of the People's Republic of China in order to maintain the prosperity and stability of the HKSAR. Taking into account the overall structure of the Basic Law, we propose the following:

- (1) Since the provision that Hong Kong's previous capitalist social and economic systems shall remain unchanged for fifty years upon the PRC's resumption of the exercise of sovereignty over Hong Kong is already included in the "Preamble" and "General Provisions" of the Basic Law, it will not be repeated in this Chapter.

- (2) Article 6 of Chapter 2 of the Basic Law (draft) already provides that "the HKSAR shall be vested with executive power. It shall, in accordance with the relevant provisions of this Law, conduct its own finance, monetary affairs,

economy..... and other executive affairs." Hence, when drafting this Chapter, we have adhered to the principle of stipulating the important basic policies regarding finance, monetary affairs and trade in the economic field. The stipulation of certain details may not be appropriate.

- (3) Since the external economic relations and trade of the HKSAR will be systematically written in Chapter 7 of the Basic Law: "The External Affairs of the HKSAR," they will not be covered by this Chapter.

After our members' heated discussions, it is proposed that this Chapter be rearranged, amended and supplemented as follows: Section 1 -- Public Finance and Taxation; Section 2 -- Finance and Monetary Affairs; Section 3 -- External Trade; Section 4 -- The Various Industries and Commerce; Section 5 -- Land Leases; Section 6 -- Shipping Management; and Section 7 -- Civil Aviation Management. There are altogether 48 articles.

These drafted sections, articles, and paragraphs are submitted to the plenary session for examination so that they may be further improved. In accordance with the third paragraph in the explanatory note under the Structure of the Basic Law (Draft), we request the session's approval of our proposed amendment to the structure and headings of this Chapter as mentioned above.

The preliminary provisions under Chapter 5: "The Economy of the HKSAR" are as follows:

Section 1 Public Finance and Taxation

Article 1: The HKSAR shall be financially independent.

The HKSAR shall use its financial revenue exclusively for its own purposes and they shall not be handed over to the Central People's Government.

Article 2: The HKSAR shall maintain a basically balanced budget.

The growth rate of the HKSAR budget shall not exceed the growth rate of the Gross Domestic Product.

[Note] A member proposed to delete the word "rate" which appeared twice in the second paragraph. Some members considered that it was unnecessary to include the second paragraph in the Basic Law.

Article 3: The HKSAR shall adopt an independent taxation system.

Article 4: The HKSAR shall continue to maintain a policy of low tax rate.

Article 5: The type, rate, and exemption of tax of the HKSAR shall be stipulated by the HKSAR in law.

[Note] Some members held that the following provision should be added as the second paragraph: "The HKSAR shall not impose tax on Hong Kong inhabitants on their extra-territorial income." Some members opposed to the inclusion of such specific provision in the Basic Law.

Article 6: The Central People's Government shall not levy taxes on the HKSAR.

[Note] Some members proposed to amend the wording to "The HKSAR shall not have the duty to pay tax to the Central People's Government."

Article 7: The budgets of the HKSAR shall be drawn up by the SAR executive authorities, examined and approved by the SAR legislature, and reported to the Central People's Government for the record.

Article 8: The expenditure of the HKSAR Government shall be in accordance with the budget.

Any expenditure which exceeds the budget shall be submitted to the legislature for examination and approval or subsequent endorsement.

Article 9: Public accounts of the HKSAR shall be verified by the SAR auditing authorities.

The SAR auditing authorities shall report to the SAR legislature annually.

Article 10: The final accounts of the HKSAR shall be drawn up and audited by the SAR executive authorities, examined by the SAR legislature, and reported to the Central People's Government for the record.

Section 2 Finance and Monetary Affairs

Article 11: The HKSAR Government shall provide the necessary conditions and take appropriate measures to maintain the status of the HKSAR as an international financial centre.

Article 12: The HKSAR shall decide its monetary and financial systems on its own.

Article 13: The HKSAR shall maintain a free and open policy regarding finance and monetary affairs.

Article 14: The HKSAR Government shall safeguard the free operation of financial businesses and financial markets, and regulate and supervise such businesses and markets in accordance with law.

Article 15: The HKSAR Government shall safeguard the free flow of capital within, into and out of the HKSAR.

Article 16: No exchange control policy shall be applied in the HKSAR.

Article 17: Markets for foreign exchange, foreign currencies, gold, securities, and futures shall continue to open in the HKSAR.

[Note] Some members considered that as foreign exchange already included foreign currencies, the mention of the latter was unnecessary.

Article 18: The Hong Kong dollar, as the legal tender of the HKSAR, shall continue to circulate and remain freely convertible.

Article 19: The authority to issue Hong Kong currency shall be vested in the HKSAR Government.

The issue of Hong Kong currency shall have sufficient currency reserve.

The HKSAR Government may authorise designated banks to issue or continue to issue Hong Kong currency under statutory authority, after satisfying itself that any issue of currency

will be soundly based and that the arrangements for such issue are consistent with the maintenance of the stability of the currency.

Article 20: The Exchange Fund of the HKSAR shall be managed and controlled by the HKSAR Government, primarily for regulating the exchange rate of the Hong Kong dollar.

Section 3 External Trade

Article 21: The HKSAR shall adopt a free external trade system.

The HKSAR shall protect the freedom of external trade and the free movement of goods, intangible property and capital.

Article 22: The HKSAR shall decide its external trade policy on its own.

The HKSAR may on its own maintain and develop economic and trade relations with all states and regions.

Article 23: The HKSAR shall be a free port.

The HKSAR shall not impose any tariff unless otherwise stipulated by law.

Article 24: The HKSAR shall be a separate customs territory.

Article 25: The HKSAR may, using the name "Hong Kong, China", participate in relevant international organisations and international trade agreements (including preferential trade arrangements), such as the General Agreement on Tariffs and Trade and arrangements regarding international trade in textiles.

Article 26: Export quotas, tariff preferences and other similar arrangements which are obtained by the HKSAR under international agreements or which were obtained in the past but still remain effective shall be enjoyed exclusively by the HKSAR.

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Article 27: The HKSAR may issue its own certificates of origin for local products in accordance with prevailing rules of origin.

Section 4 The Various Industries and Commerce

Article 28: The HKSAR shall implement a free and open policy regarding industry and commerce.

Article 29: The HKSAR shall encourage industrial investment and technological advancement, and open up new industries in order to strengthen its competitiveness in the international arena.

Article 30: The HKSAR Government shall actively create the necessary environment and conditions to facilitate industrial development.

Article 31: The HKSAR shall actively adopt appropriate policies to promote the development of commerce, tourism, real estate industry, transport industry, public utilities, service industries, agriculture and fishery, etc.

Section 5 Land Leases

Article 32: The HKSAR may on its own decide policies regarding the development, management and use of land.

Article 33: All leases of land granted, decided upon or renewed before the establishment of the HKSAR, which extend beyond 30 June 1997, and all rights in relation to such leases, shall continue to be recognised and protected under the law of the HKSAR.

Article 34: From 1 July 1997, all leases of land granted or renewed (though previously not having a right of renewal) within the period from 27 May 1985 to 30 June 1997, which extend beyond 30 June 1997 and expire not later than 30 June 2047, shall not require payment of an additional premium but an annual rent equivalent to three per cent of the rateable value of the property at that date, adjusted in step with changes in the rateable value thereafter, shall be charged.

Article 35: In the case of old schedule lots, village lots, small houses and similar rural holdings, where the property was on 30 June 1984 held by, or, in the case of small houses granted after that date, the property is granted to, a person descended through the male line from a person who was in 1998 a resident of an established village in Hong Kong, the previous rent shall remain unchanged so long as the property is held by that person or by one of his lawful successors in the male line.

Article 36: Where leases of land not having a right of renewal expire after the establishment of the HKSAR, they shall be dealt with in accordance with the laws and policies decided by the HKSAR on its own.

[Note] Some members considered that the specific issues on land leases should not be dealt with in detail by the Basic Law. It was proposed that the relevant provisions under Annex III to the Joint Declaration be summarised into a single article and included in Section 4 of this Chapter.

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Section 6 Shipping Management

Article 37: The HKSAR shall maintain Hong Kong's previous systems of shipping management and shipping regulation. The specific functions and responsibilities of the HKSAR Government in the field of shipping shall be defined by the HKSAR Government on its own.

Article 38: The HKSAR shall be authorised by the Central People's Government to continue to maintain a shipping register and issue related certificates under its own legislation in the name of "Hong Kong, China".

Article 39: All ships for civil use shall enjoy access to the ports of the HKSAR in accordance with the laws of the HKSAR.

Access of foreign warships to the HKSAR shall require the permission of the Central People's Government.

Article 40: Private shipping businesses and shipping-related businesses and private container terminals in Hong Kong may continue to operate freely.

Section 7 Civil Aviation Management

Article 41: The HKSAR Government shall provide necessary conditions and take appropriate measures to maintain the status of Hong Kong as a centre of international and regional aviation.

Article 42: The HKSAR shall maintain the previous system of civil aviation management in Hong Kong, and keep its own aircraft register in accordance with provisions laid down by the Central People's Government concerning nationality marks and registration marks of aircraft.

Access of foreign military aircraft to the HKSAR shall require permission of the Central People's Government.

Article 43: The HKSAR shall be responsible on its own for matters of routine business and technical management of civil aviation, and the management of airports.

The HKSAR shall be responsible for the provision of air services within the flight information region of the HKSAR, and the discharge of other responsibilities allocated under the regional air navigation procedures of the International Civil Aviation Organisation.

Article 44: The HKSAR Government shall, in consultation with the HKSAR, make arrangement providing for air services between the HKSAR and other parts of the People's Republic of China for airlines incorporated and having their principal place of business in the HKSAR and other airlines of the People's Republic of China.

Article 45: All Air Service Agreements providing for air services between other parts of the People's Republic of China and other states and regions with stops at the HKSAR and air services

between the HKSAR and other states and regions with stops at other parts of the People's Republic of China shall be concluded by the Central People's Government.

In concluding the Air Service Agreements mentioned in the first paragraph of this Article, the Central People's Government shall take account of the special conditions and economic interests of the HKSAR and consult the HKSAR Government.

Representatives of the HKSAR Government may participate as members of delegations of the Government of the People's Republic of China in air service consultations with foreign governments concerning arrangements for such services mentioned in the first paragraph of this Article.

Article 46: Acting under specific authorisations from the Central People's Government, the HKSAR Government may:

- (1) renew or amend Air Service Agreements and arrangements previously in force (in principle, all such Agreements and arrangements may be renewed or amended with the rights contained in such previous Agreements and arrangements being as far as possible maintained);
- (2) conclude new Air Service Agreements providing routes for airlines incorporated and having their principal place of business in the HKSAR and rights for overflights and technical stops; and
- (3) conclude provisional arrangements where no Air Service Agreement with a foreign state or other region is in force.

All scheduled air services to, from, or through the HKSAR which do not operate to, from, or through the mainland of China shall be regulated by Air Service Agreements or provisional arrangements referred to in this Article.

Article 47: The Central People's Government shall give the HKSAR Government the authority to:

- (1) negotiate and conclude with other authorities all arrangements concerning the implementation of the Air Service Agreements and provisional arrangements mentioned in Article 46 of this Law;
- (2) issue licences to airlines incorporated and having their principal place of business in the HKSAR;
- (3) designate such airlines under the Air Service Agreements and provisional arrangements mentioned in Article 46 of this Law; and
- (4) issue permits to foreign airlines for services other than those to, from, or through the mainland of China.

Article 48: Airlines incorporated and having their principal place of business in Hong Kong and civil aviation related businesses may continue to operate.

[Note] Some members proposed Article 46 and 47 be combined as follows: "Acting under specific authorisations from the Central People's Government, the HKSAR Government may negotiate, amend, renew or conclude Air Service Agreements, arrangements, or provisional arrangements concerning the HKSAR Government, and make arrangements in accordance with law, and shall report to the Central People's Government for approval or record."