

1. Mencabut keberadaan *article 38 Hong Kong National Security Law* yang memperluas cakupan yurisdiksi hukum ini menjadi di seluruh dunia dan terhadap semua orang.
2. Cina untuk berhenti menyangkali perjanjian *Sino British Joint Declaration* yang telah dibuat atas dasar persetujuan Cina sendiri dengan cara membuat hukum maupun kebijakan yang bertentangan dengan ketentuan perjanjian tersebut.
3. Bagi seluruh negara untuk memperhatikan perjanjian ekstradisi yang sudah maupun yang akan dijalin dengan Hong Kong maupun dengan Cina agar tidak terjadi tindakan pengekstradisian yang sifatnya *unlawful* menurut hukum internasional dan mengancam hak orang-orang terhadap *fair trial*.

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## LAMPIRAN

### 1. Laporan dari United Nation Treatise

18/2/2021

Today is Thursday, 18 February 2021 08.57.24

<b>Registration Number</b>	23391				
<b>Title</b>	Joint Declaration on the question of Hong Kong.				
<b>Participant(s)</b>	China* United Kingdom of Great Britain and Northern Ireland*				
<b>Submitter</b>	United Kingdom of Great Britain and Northern Ireland China				
<b>Places/dates of conclusion</b>	<table><thead><tr><th>Place</th><th>Date</th></tr></thead><tbody><tr><td>Beijing</td><td>19/12/1984</td></tr></tbody></table>	Place	Date	Beijing	19/12/1984
Place	Date				
Beijing	19/12/1984				
<b>EIF information</b>	27 May 1985				
<b>Authentic texts</b>	English Chinese				
<b>Attachments</b>	with annexes				
<b>ICJ information</b>					
<b>Depositary</b>					
<b>Registration Date</b>	China 12 June 1985				
<b>Subject terms</b>	Geographical names				
<b>Agreement type</b>	Bilateral				
<b>UNTS Volume Number</b>	1399				
<b>Publication format</b>	Full				
<b>Certificate Of Registration</b>					
<b>Text document(s)</b>					
<b>Volume In PDF</b>	<a href="#">v1399.pdf</a>				
<b>Map(s)</b>					
<b>Corrigendum/Addendum</b>					

## **2. Sino-British Joint Declaration**

### **Joint Declaration of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China on the Question of Hong Kong**

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China have reviewed with satisfaction the friendly relations existing between the two Governments and peoples in recent years and agreed that a proper negotiated settlement of the question of Hong Kong, which is left over from the past, is conducive to the maintenance of the prosperity and stability of Hong Kong and to the further strengthening and development of the relations between the two countries on a new basis. To this end, they have, after talks between the delegations of the two Governments, agreed to declare as follows:

**1.** The Government of the People's Republic of China declares that to recover the Hong Kong area (including Hong Kong Island, Kowloon and the New Territories, hereinafter referred to as Hong Kong) is the common aspiration of the entire Chinese people, and that it has decided to resume the exercise of sovereignty over Hong Kong with effect from 1 July 1997.

**2.** The Government of the United Kingdom declares that it will restore Hong Kong to the People's Republic of China with effect from 1 July 1997.

**3.** The Government of the People's Republic of China declares that the basic policies of the People's Republic of China regarding Hong Kong are as follows:

1. (1) Upholding national unity and territorial integrity and taking account of the history of Hong Kong and its realities, the People's Republic of China has decided to establish, in accordance with the provisions of Article 31 of the Constitution of the People's Republic of China, a Hong Kong Special Administrative Region upon resuming the exercise of sovereignty over Hong Kong.

(2) The Hong Kong Special Administrative Region will be directly under the authority of the Central People's Government of the People's Republic of China. The Hong Kong Special Administrative Region will enjoy a high

degree of autonomy, except in foreign and defence affairs which are the responsibilities of the Central People's Government.

(3) The Hong Kong Special Administrative Region will be vested with executive, legislative and independent judicial power, including that of final adjudication. The laws currently in force in Hong Kong will remain basically unchanged.

(4) The Government of the Hong Kong Special Administrative Region will be composed of local inhabitants. The chief executive will be appointed by the Central People's Government on the basis of the results of elections or consultations to be held locally. Principal officials will be nominated by the chief executive of the Hong Kong Special Administrative Region for appointment by the Central People's Government. Chinese and foreign nationals previously working in the public and police services in the government departments of Hong Kong may remain in employment. British and other foreign nationals may also be employed to serve as advisers or hold certain public posts in government departments of the Hong Kong Special Administrative Region.

(5) The current social and economic systems in Hong Kong will remain unchanged, and so will the life-style. Rights and freedoms, including those of the person, of speech, of the press, of assembly, of association, of travel, of movement, of correspondence, of strike, of choice of occupation, of academic research and of religious belief will be ensured by law in the Hong Kong Special Administrative Region. Private property, ownership of enterprises, legitimate right of inheritance and foreign investment will be protected by law.

(6) The Hong Kong Special Administrative Region will retain the status of a free port and a separate customs territory.

(7) The Hong Kong Special Administrative Region will retain the status of an international financial centre, and its markets for foreign exchange, gold, securities and futures will continue. There will be free flow of capital. The Hong Kong dollar will continue to circulate and remain freely convertible.

(8) The Hong Kong Special Administrative Region will have independent finances. The Central People's Government will not levy taxes on the Hong Kong Special Administrative Region.

(9) The Hong Kong Special Administrative Region may establish mutually beneficial economic relations with the United Kingdom and other countries, whose economic interests in Hong Kong will be given due regard.

(10) Using the name of 'Hong Kong, China', the Hong Kong Special Administrative Region may on its own maintain and develop economic and cultural relations and conclude relevant agreements with states, regions and relevant international organisations.

The Government of the Hong Kong Special Administrative Region may on its own issue travel documents for entry into and exit from Hong Kong.

(11) The maintenance of public order in the Hong Kong Special Administrative Region will be the responsibility of the Government of the Hong Kong Special Administrative Region.

(12) The above-stated basic policies of the People's Republic of China regarding Hong Kong and the elaboration of them in Annex I to this Joint Declaration will be stipulated, in a Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, by the National People's Congress of the People's Republic of China, and they will remain unchanged for 50 years.

**4.** The Government of the United Kingdom and the Government of the People's Republic of China declare that, during the transitional period between the date of the entry into force of this Joint Declaration and 30 June 1997, the Government of the United Kingdom will be responsible for the administration of Hong Kong with the object of maintaining and preserving its economic prosperity and social stability; and that the Government of the People's Republic of China will give its cooperation in this connection.

**5.** The Government of the United Kingdom and the Government of the People's Republic of China declare that, in order to ensure a smooth transfer of government in 1997, and with a view to the effective implementation of this Joint Declaration, a Sino-British Joint Liaison Group will be set up when this Joint Declaration enters into force; and that it will be established and will function in accordance with the provisions of Annex II to this Joint Declaration.

**6.** The Government of the United Kingdom and the Government of the People's Republic of China declare that land leases in Hong Kong and other related matters will be dealt with in accordance with the provisions of Annex III to this Joint Declaration.

**7.** The Government of the United Kingdom and the Government of the People's Republic of China agree to implement the preceding declarations and the Annexes to this Joint Declaration.

**8.** This Joint Declaration is subject to ratification and shall enter into force on the date of the exchange of instruments of ratification, which shall take place in Beijing

before 30 June 1985. This Joint Declaration and its Annexes shall be equally binding.

Done in duplicate at Beijing on 19 December 1984 in the English and Chinese languages, both texts being equally authentic.

(Signed)

For the Government of the United  
Kingdom of Great Britain and  
Northern Ireland

(Signed)

For the Government of the People's  
Republic of China

### **3. Hong Kong National Security Law**

Editorial Note:

The following English translation is reproduced from G.N. (E.) 72 of 2020 for information—

#### **The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region**

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## Chapter I

### General Principles

#### Article 1

This Law is enacted, in accordance with the Constitution of the People's Republic of China, the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, and the Decision of the National People's Congress on Establishing and Improving the Legal System and Enforcement Mechanisms for Safeguarding National Security in the Hong Kong Special Administrative Region, for the purpose of:

- ensuring the resolute, full and faithful implementation of the policy of One Country, Two Systems under which the people of Hong Kong administer Hong Kong with a high degree of autonomy;
- safeguarding national security;
- preventing, suppressing and imposing punishment for the offences of secession, subversion, organisation and perpetration of terrorist activities, and collusion with a foreign country or with external elements to endanger national security in relation to the Hong Kong Special Administrative Region;
- maintaining prosperity and stability of the Hong Kong Special Administrative Region; and
- protecting the lawful rights and interests of the residents of the Hong Kong Special Administrative Region.

#### Article 2

The provisions in Articles 1 and 12 of the Basic Law of the Hong Kong Special Administrative Region on the legal status of the Hong

Kong Special Administrative Region are the fundamental provisions in the Basic Law. No institution, organisation or individual in the Region shall contravene these provisions in exercising their rights and freedoms.

#### Article 3

The Central People's Government has an overarching responsibility for national security affairs relating to the Hong Kong Special Administrative Region.

It is the duty of the Hong Kong Special Administrative Region under the Constitution to safeguard national security and the Region shall perform the duty accordingly.

The executive authorities, legislature and judiciary of the Region shall effectively prevent, suppress and impose punishment for any act or activity endangering national security in accordance with this Law and other relevant laws.

#### Article 4

Human rights shall be respected and protected in safeguarding national security in the Hong Kong Special Administrative Region. The rights and freedoms, including the freedoms of speech, of the press, of publication, of association, of assembly, of procession and of demonstration, which the residents of the Region enjoy under the Basic Law of the Hong Kong Special Administrative Region and the provisions of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights as applied to Hong Kong, shall be protected in accordance with the law.

#### Article 5

The principle of the rule of law shall be adhered to in preventing, suppressing, and imposing punishment for offences endangering national security. A person who commits an act which constitutes an offence under the law shall be convicted and punished in accordance with the law. No one shall be convicted and punished for an act which does not constitute an offence under the law.

A person is presumed innocent until convicted by a judicial body. The right to defend himself or herself and other rights in judicial

proceedings

that a criminal suspect, defendant, and other parties in judicial proceedings are entitled to under the law shall be protected. No one shall be liable to be tried or punished again for an offence for which he or she has already been finally convicted or acquitted in judicial proceedings.

#### Article 6

It is the common responsibility of all the people of China, including the people of Hong Kong, to safeguard the sovereignty, unification and territorial integrity of the People's Republic of China.

Any institution, organisation or individual in the Hong Kong Special Administrative Region shall abide by this Law and the laws of the Region in relation to the safeguarding of national security, and shall not engage in any act or activity which endangers national security.

A resident of the Region who stands for election or assumes public office shall confirm in writing or take an oath to uphold the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China and swear allegiance to the Hong Kong Special Administrative Region of the People's Republic of China in accordance with the law.

## Chapter II

### The Duties and the Government Bodies of the Hong Kong Special Administrative Region for Safeguarding National Security

#### Part 1 Duties

#### Article 7

The Hong Kong Special Administrative Region shall complete, as early as possible, legislation for safeguarding national security as stipulated in the Basic Law of the Hong Kong Special Administrative

Region and shall refine relevant laws.

#### Article 8

In order to safeguard national security effectively, the law enforcement and judicial authorities of the Hong Kong Special

Administrative Region shall fully enforce this Law and the laws in force in the Region concerning the prevention of, suppression of, and imposition of punishment for acts and activities endangering national security.

#### Article 9

The Hong Kong Special Administrative Region shall strengthen its work on safeguarding national security and prevention of terrorist activities. The Government of the Hong Kong Special Administrative Region shall take necessary measures to strengthen public communication, guidance, supervision and regulation over matters concerning national security, including those relating to schools, universities, social organisations, the media, and the internet.

#### Article 10

The Hong Kong Special Administrative Region shall promote national security education in schools and universities and through social organisations, the media, the internet and other means to raise the awareness of Hong Kong residents of national security and of the obligation to abide by the law.

#### Article 11

The Chief Executive of the Hong Kong Special Administrative Region shall be accountable to the Central People's Government for affairs relating to safeguarding national security in the Hong Kong Special Administrative Region and shall submit an annual report on the performance of duties of the Region in safeguarding national security.

The Chief Executive shall, at the request of the Central People's Government, submit in a timely manner a report on specific matters relating to safeguarding national security.

#### Article 12

The Hong Kong Special Administrative Region shall establish the Committee for Safeguarding National Security. The Committee shall be responsible for affairs relating to and assume primary

responsibility for safeguarding national security in the Region. It shall be under the supervision of and accountable to the Central People's Government.

#### Article 13

The Chief Executive shall be the chairperson of the Committee for Safeguarding National Security of the Hong Kong Special Administrative Region. The other members of the Committee shall be the Chief Secretary for Administration, the Financial Secretary, the Secretary for Justice, the Secretary for Security, the Commissioner of Police, the head of the department for safeguarding national security of the Hong Kong Police Force established under Article 16 of this Law, the Director of Immigration, the Commissioner of Customs and Excise, and the Director of the Chief Executive's Office.

A secretariat headed by a Secretary-General shall be established under the Committee. The Secretary-General shall be appointed by the Central People's Government upon nomination by the Chief Executive.

#### Article 14

The duties and functions of the Committee for Safeguarding National Security of the Hong Kong Special Administrative Region shall be:

(1) analysing and assessing developments in relation to safeguarding national security in the Hong Kong Special Administrative Region, making work plans, and formulating policies for safeguarding national security in the Region;

(2) advancing the development of the legal system and enforcement mechanisms of the Region for safeguarding national

security; and

(3) coordinating major work and significant operations for safeguarding national security in the Region.

No institution, organisation or individual in the Region shall interfere with the work of the Committee. Information relating to the work of the Committee shall not be subject to disclosure. Decisions made by the Committee shall not be amenable to judicial review.

#### Article 15

The Committee for Safeguarding National Security of the Hong Kong Special Administrative Region shall have a National Security Adviser, who shall be designated by the Central People's Government and provide advice on matters relating to the duties and functions of the Committee. The National Security Adviser shall sit in on meetings of the Committee.

#### Article 16

The Police Force of the Hong Kong Special Administrative Region shall establish a department for safeguarding national security with law enforcement capacity.

The head of the department for safeguarding national security of the Hong Kong Police Force shall be appointed by the Chief Executive. The Chief Executive shall seek in writing the opinion of the Office established under Article 48 of this Law before making the appointment. When assuming office, the head of the department for safeguarding national security of the Hong Kong Police Force shall swear to uphold the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, swear allegiance to the Hong Kong Special Administrative Region of the People's Republic of China, and swear to abide by the law and to observe the obligation of secrecy.

The department for safeguarding national security of the Hong Kong Police Force may recruit qualified professionals and technical personnel from outside the Hong Kong Special Administrative Region to provide assistance in the performance of duties for safeguarding national security.

#### Article 17

The duties and functions of the department for safeguarding national security of the Hong Kong Police Force shall be:

- (1) collecting and analysing intelligence and information concerning national security;
- (2) planning, coordinating and enforcing measures and operations for safeguarding national security;
- (3) investigating offences endangering national security;
- (4) conducting counter-interference investigation and national security review;
- (5) carrying out tasks of safeguarding national security assigned by the Committee for Safeguarding National Security of the Hong Kong Special Administrative Region; and
- (6) performing other duties and functions necessary for the enforcement of this Law.

#### Article 18

The Department of Justice of the Hong Kong Special Administrative Region shall establish a specialised prosecution division responsible for the prosecution of offences endangering national security and other related legal work. The prosecutors of this division shall be appointed by the Secretary for Justice after obtaining the consent of the Committee for Safeguarding National Security of the Hong Kong Special Administrative Region.

The head of the specialised prosecution division of the Department of Justice shall be appointed by the Chief Executive, who shall seek in writing the opinion of the Office established under Article 48 of this Law before making the appointment. When assuming office, the head of the specialised prosecution division shall swear to uphold the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, swear allegiance to the Hong Kong Special Administrative Region of the People's Republic of China, and swear to abide by the law and to observe the obligation of secrecy.

#### Article 19

The Financial Secretary of the Hong Kong Special Administrative Region shall, upon approval of the Chief Executive, appropriate from the general revenue a special fund to meet the expenditure for safeguarding national security and approve the establishment of relevant posts, which are not subject to any restrictions in the relevant provisions of the laws in force in the Region. The Financial Secretary shall submit an annual report on the control and management of the fund for this purpose to the Legislative Council of the Hong Kong Special Administrative Region.

### Chapter III

#### Offences and Penalties

##### Part 1 Secession

#### Article 20

A person who organises, plans, commits or participates in any of the following acts, whether or not by force or threat of force, with a view to committing secession or undermining national unification shall be guilty of an offence:

- (1) separating the Hong Kong Special Administrative Region or any other part of the People's Republic of China from the People's Republic of China;
- (2) altering by unlawful means the legal status of the Hong Kong Special Administrative Region or of any other part of the People's Republic of China; or
- (3) surrendering the Hong Kong Special Administrative Region or any other part of the People's Republic of China to a foreign country.

A person who is a principal offender or a person who commits an offence of a grave nature shall be sentenced to life imprisonment or

fixed-term imprisonment of not less than ten years; a person who actively participates in the offence shall be sentenced to fixed-term imprisonment of not less than three years but not more than ten years; and other participants shall be sentenced to fixed-term imprisonment of not more than three years, short-term detention or restriction.

#### Article 21

A person who incites, assists in, abets or provides pecuniary or other financial assistance or property for the commission by other persons of the offence under Article 20 of this Law shall be guilty

of an offence. If the circumstances of the offence committed by a person are of a serious nature, the person shall be sentenced to fixed-term imprisonment of not less than five years but not more than ten years; if the circumstances of the offence committed by a person are of a minor nature, the person shall be sentenced to fixed-term imprisonment of not more than five years, short-term detention or restriction.

### Part 2 Subversion

#### Article 22

A person who organises, plans, commits or participates in any of the following acts by force or threat of force or other unlawful means with a view to subverting the State power shall be guilty of an offence:

- (1) overthrowing or undermining the basic system of the People's Republic of China established by the Constitution of the People's Republic of China;
- (2) overthrowing the body of central power of the People's Republic of China or the body of power of the Hong Kong Special Administrative Region;
- (3) seriously interfering in, disrupting, or undermining the performance of duties and functions in accordance with the law by the body of central power of the People's Republic of China or the

body of power of the Hong Kong Special Administrative Region; or

(4) attacking or damaging the premises and facilities used by the body of power of the Hong Kong Special Administrative Region to perform its duties and functions, rendering it incapable of performing its normal duties and functions.

A person who is a principal offender or a person who commits an offence of a grave nature shall be sentenced to life imprisonment or fixed-term imprisonment of not less than ten years; a person who actively participates in the offence shall be sentenced to fixed-term imprisonment of not less than three years but not more than ten years; and other participants shall be sentenced to fixed-term imprisonment of not more than three years, short-term detention or restriction.

#### Article 23

A person who incites, assists in, abets or provides pecuniary or other financial assistance or property for the commission by other persons of the offence under Article 22 of this Law shall be guilty of an offence. If the circumstances of the offence committed by a person are of a serious nature, the person shall be sentenced to fixed-term imprisonment of not less than five years but not more than ten years; if the circumstances of the offence committed by a person are of a minor nature, the person shall be sentenced to fixed-term imprisonment of not more than five years, short-term detention or restriction.

### Part 3 Terrorist Activities

#### Article 24

A person who organises, plans, commits, participates in or threatens to commit any of the following terrorist activities causing or intended to cause grave harm to the society with a view to coercing the Central People's Government, the Government of the Hong Kong Special Administrative Region or an international organisation or intimidating the public in order to pursue political agenda shall be guilty of an offence:

(1) serious violence against a person or persons;

- (2) explosion, arson, or dissemination of poisonous or radioactive substances, pathogens of infectious diseases or other substances;
- (3) sabotage of means of transport, transport facilities, electric power or gas facilities, or other combustible or explosible facilities;
- (4) serious interruption or sabotage of electronic control systems for providing and managing public services such as water, electric power, gas, transport, telecommunications and the internet; or
- (5) other dangerous activities which seriously jeopardise public health, safety or security.

A person who commits the offence causing serious bodily injury, death or significant loss of public or private property shall be sentenced to life imprisonment or fixed-term imprisonment of not less than ten years; in other circumstances, a person who commits the offence shall be sentenced to fixed-term imprisonment of not less than three years but not more than ten years.

#### Article 25

A person who organises or takes charge of a terrorist organisation shall be guilty of an offence and shall be sentenced to life imprisonment or fixed-term imprisonment of not less than ten years, and shall be subject to confiscation of property; a person who actively participates in a terrorist organisation shall be sentenced to fixed-term imprisonment of not less than three years but not more than ten years and shall be imposed with a criminal fine; and other participants shall be sentenced to fixed-term imprisonment of not more than three years, short-term detention or restriction, and shall be liable to a criminal fine.

For the purpose of this Law, a terrorist organisation means an organisation which commits or intends to commit the offence under Article 24 of this Law or participates or assists in the commission of the offence.

#### Article 26

A person who provides support, assistance or facility such as training, weapons, information, funds, supplies, labour, transport,

technologies or venues to a terrorist organisation or a terrorist, or for the commission of a terrorist activity; or manufactures or illegally possesses substances such as explosive, poisonous or radioactive substances and pathogens of infectious diseases or uses other means to prepare for the commission of a terrorist activity, shall be guilty of an offence. If the circumstances of the offence committed by a person are of a serious nature, the person shall be sentenced to fixed-term imprisonment of not less than five years but not more than ten years, and shall be imposed with a criminal fine or subject to confiscation of property; in other circumstances, a person shall be sentenced to fixed-term imprisonment of not more than five years, short-term detention or restriction, and shall be imposed with a criminal fine.

If the act referred to in the preceding paragraph also constitutes other offences, the person who commits the act shall be convicted and sentenced for the offence that carries a more severe penalty.

#### Article 27

A person who advocates terrorism or incites the commission of a terrorist activity shall be guilty of an offence. If the circumstances of the offence committed by a person are of a serious nature, the person shall be sentenced to fixed-term imprisonment of not less than five years but not more than ten years, and shall be imposed with a criminal fine or subject to confiscation of property; in other circumstances, a person shall be sentenced to fixed-term imprisonment of not more than five years, short-term detention or restriction, and shall be imposed with a criminal fine.

#### Article 28

The provisions of this Part shall not affect the prosecution of terrorist offences committed in other forms or the imposition of other measures such as freezing of property in accordance with the laws of the Hong Kong Special Administrative Region.

### Part 4 Collusion with a Foreign Country or with External Elements to Endanger National Security

#### Article 29

A person who steals, spies, obtains with payment, or unlawfully provides State secrets or intelligence concerning national security for a foreign country or an institution, organisation or individual outside the mainland, Hong Kong, and Macao of the People's Republic of China shall be guilty of an offence; a person who requests a foreign country or an institution, organisation or individual outside the mainland, Hong Kong, and Macao of the People's Republic of China, or conspires with a foreign country or an institution, organisation or individual outside the mainland, Hong Kong, and Macao of the People's Republic of China, or directly or indirectly receives instructions, control, funding or other kinds of support from a foreign country or an institution, organisation or individual outside the mainland, Hong Kong, and Macao of the People's

Republic of China, to commit any of the following acts shall be guilty of an offence:

- (1) waging a war against the People's Republic of China, or using or threatening to use force to seriously undermine the sovereignty, unification and territorial integrity of the People's Republic of China;
- (2) seriously disrupting the formulation and implementation of laws or policies by the Government of the Hong Kong Special Administrative Region or by the Central People's Government, which is likely to cause serious consequences;
- (3) rigging or undermining an election in the Hong Kong Special Administrative Region, which is likely to cause serious consequences;
- (4) imposing sanctions or blockade, or engaging in other hostile activities against the Hong Kong Special Administrative Region or the People's Republic of China; or
- (5) provoking by unlawful means hatred among Hong Kong residents towards the Central People's Government or the Government of the Region, which is likely to cause serious consequences.

A person who commits the offence shall be sentenced to fixed-term imprisonment of not less than three years but not more than ten years; a person who commits an offence of a grave nature shall be sentenced to life imprisonment or fixed-term imprisonment of not less than ten years.

The institution, organisation and individual outside the mainland, Hong Kong, and Macao of the People's Republic of China referred to in the first paragraph of this Article shall be convicted and punished for the same offence.

#### Article 30

A person who conspires with or directly or indirectly receives instructions, control, funding or other kinds of support from a foreign country or an institution, organisation, or individual outside the mainland, Hong Kong, and Macao of the People's Republic of China to commit the offences under Article 20 or 22 of this Law shall be liable to a more severe penalty in accordance with the provisions therein respectively.

### Part 5 Other Provisions on Penalty

#### Article 31

An incorporated or unincorporated body such as a company or an organisation which commits an offence under this Law shall be imposed with a criminal fine.

The operation of an incorporated or unincorporated body such as a company or an organisation shall be suspended or its licence or business permit shall be revoked if the body has been punished for committing an offence under this Law.

#### Article 32

Proceeds obtained from the commission of an offence under this Law including financial aid, gains and rewards, and funds and tools used or intended to be used in the commission of the offence shall be seized and confiscated.

#### Article 33

A lighter penalty may be imposed, or the penalty may be reduced or, in the case of a minor offence, exempted, if an offender, criminal suspect, or defendant:

(1) in the process of committing an offence, voluntarily discontinues the commission of the offence or voluntarily and effectively forestalls its consequences;

(2) voluntarily surrenders himself or herself and gives a truthful account of the offence; or

(3) reports on the offence committed by other person, which is verified to be true, or provides material information which assists in solving other criminal case.

Sub-paragraph (2) of the preceding paragraph shall apply to a criminal suspect or defendant who is subjected to mandatory measures and provides a truthful account of other offences committed by him or her under this Law which are unknown to the law enforcement or judicial authorities.

#### Article 34

A person who is not a permanent resident of the Hong Kong Special Administrative Region may be subject to deportation as the sole or an additional punishment if he or she commits an offence under this Law.

A person who is not a permanent resident of the Region may be subject to deportation if he or she contravenes the provisions of this Law but is not prosecuted for any reason.

#### Article 35

A person who is convicted of an offence endangering national security by a court shall be disqualified from standing as a candidate in the elections of the Legislative Council and district councils of the Hong Kong Special Administrative Region, holding any public office in the Region, or serving as a member of the Election Committee for electing the Chief Executive. If a person so convicted is a member of the Legislative Council, a government official, a public servant, a member of the Executive Council, a judge or a judicial officer, or a

member of the district councils, who has taken an oath or made a declaration to uphold the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China and swear allegiance to the Hong Kong Special Administrative Region of the People's Republic of China, he or she shall be removed from his or her office upon conviction, and shall be disqualified from standing for the aforementioned elections or from holding any of the aforementioned posts.

The disqualification and removal from offices referred to in the preceding paragraph shall be announced by the authorities responsible for organising and managing the relevant elections or for the appointment and removal of holders of public office.

## Part 6 Scope of Application

### Article 36

This Law shall apply to offences under this Law which are committed in the Hong Kong Special Administrative Region by any person. An offence shall be deemed to have been committed in the Region if an act constituting the offence or the consequence of the offence occurs in the Region.

This Law shall also apply to offences under this Law committed on board a vessel or aircraft registered in the Region.

### Article 37

This Law shall apply to a person who is a permanent resident of the Hong Kong Special Administrative Region or an incorporated or unincorporated body such as a company or an organisation which is set up in the Region if the person or the body commits an offence under this Law outside the Region.

### Article 38

This Law shall apply to offences under this Law committed against the Hong Kong Special Administrative Region from outside the Region by a person who is not a permanent resident of the Region.

### Article 39

This Law shall apply to acts committed after its entry into force for

the purpose of conviction and imposition of punishment.

#### Chapter IV Jurisdiction, Applicable Law and Procedure

##### Article 40

The Hong Kong Special Administrative Region shall have jurisdiction over cases concerning offences under this Law, except under the circumstances specified in Article 55 of this Law.

##### Article 41

This Law and the laws of the Hong Kong Special Administrative Region shall apply to procedural matters, including those related to criminal investigation, prosecution, trial, and execution of penalty, in respect of cases concerning offence endangering national security over which the Region exercises jurisdiction.

No prosecution shall be instituted in respect of an offence endangering national security without the written consent of the Secretary for Justice. This provision shall not prejudice the arrest and detention of a person who is suspected of having committed the offence or the application for bail by the person in accordance with the law.

Cases concerning offence endangering national security within the jurisdiction of the Hong Kong Special Administrative Region shall be tried on indictment.

The trial shall be conducted in an open court. When circumstances arise such as the trial involving State secrets or public order, all or part of the trial shall be closed to the media and the public but the judgment shall be delivered in an open court.

##### Article 42

When applying the laws in force in the Hong Kong Special Administrative Region concerning matters such as the detention and time limit for trial, the law enforcement and judicial authorities of the Region shall ensure that cases concerning offence endangering national security are handled in a fair and timely manner so as to effectively prevent, suppress and impose punishment for such

offence.

No bail shall be granted to a criminal suspect or defendant unless the judge has sufficient grounds for believing that the criminal suspect or defendant will not continue to commit acts endangering national security.

#### Article 43

When handling cases concerning offence endangering national security, the department for safeguarding national security of the Police Force of the Hong Kong Special Administrative Region may take measures that law enforcement authorities, including the Hong Kong Police Force, are allowed to apply under the laws in force in the Hong Kong Special Administrative Region in investigating serious crimes, and may also take the following measures:

- (1) search of premises, vehicles, vessels, aircraft and other relevant places and electronic devices that may contain evidence of an offence;
- (2) ordering any person suspected of having committed an offence endangering national security to surrender travel documents, or prohibiting the person concerned from leaving the Region;
- (3) freezing of, applying for restraint order, charging order and confiscation order in respect of, and forfeiture of property used or intended to be used for the commission of the offence, proceeds of crime, or other property relating to the commission of the offence;
- (4) requiring a person who published information or the relevant service provider to delete the information or provide assistance;
- (5) requiring a political organisation of a foreign country or outside the mainland, Hong Kong, and Macao of the People's Republic of China, or an agent of authorities or a political organisation of a foreign country or outside the mainland, Hong Kong, and Macao of the People's Republic of China, to provide information;
- (6) upon approval of the Chief Executive, carrying out interception of communications and conducting covert surveillance on a person who is suspected, on reasonable grounds, of having involved in the

commission of an offence endangering national security; and

(7) requiring a person, who is suspected, on reasonable grounds, of having in possession information or material relevant to investigation, to answer questions and furnish such information or produce such material.

The Committee for Safeguarding National Security of the Hong Kong Special Administrative Region shall be responsible for supervising the implementation of the measures stipulated in the first paragraph of this Article by law enforcement authorities including the department for safeguarding national security of the Hong Kong Police Force.

The Chief Executive shall be authorised, in conjunction with the Committee for Safeguarding National Security of the Hong Kong Special Administrative Region, to make relevant implementation rules for the purpose of applying the measures under the first paragraph of this Article.

#### Article 44

The Chief Executive shall designate a number of judges from the magistrates, the judges of the District Court, the judges of the Court of First Instance and the Court of Appeal of the High Court, and the judges of the Court of Final Appeal, and may also designate a number of judges from deputy judges or recorders, to handle cases concerning offence endangering national security. Before making such designation, the Chief Executive may consult the Committee for Safeguarding National Security of the Hong Kong Special Administrative Region and the Chief Justice of the Court of Final Appeal. The term of office of the aforementioned designated judges shall be one year.

A person shall not be designated as a judge to adjudicate a case concerning offence endangering national security if he or she has made any statement or behaved in any manner endangering national security. A designated judge shall be removed from the designation list if he or she makes any statement or behaves in any manner endangering national security during the term of office.

The proceedings in relation to the prosecution for offences

endangering national security in the magistrates' courts, the District Court, the High Court and the Court of Final Appeal shall be handled by the designated judges in the respective courts.

#### Article 45

Unless otherwise provided by this Law, magistrates' courts, the District Court, the High Court and the Court of Final Appeal shall handle proceedings in relation to the prosecution for offences endangering national security in accordance with the laws of the Hong Kong Special Administrative Region.

#### Article 46

In criminal proceedings in the Court of First Instance of the High Court concerning offences endangering national security, the Secretary for Justice may issue a certificate directing that the case shall be tried without a jury on the grounds of, among others, the protection of State secrets, involvement of foreign factors in the case, and the protection of personal safety of jurors and their family members. Where the Secretary for Justice has issued the certificate, the case shall be tried in the Court of First Instance without a jury by a panel of three judges.

Where the Secretary for Justice has issued the certificate, the reference to "a jury" or "a verdict of the jury" in any provision of the laws of the Hong Kong Special Administrative Region applicable to the related proceedings shall be construed as referring to the judges or the functions of the judge as a judge of fact.

#### Article 47

The courts of the Hong Kong Special Administrative Region shall obtain a certificate from the Chief Executive to certify whether an act involves national security or whether the relevant evidence involves State secrets when such questions arise in the adjudication of a case. The certificate shall be binding on the courts.

### Chapter V

#### Office for Safeguarding National Security of the Central People's Government in the Hong Kong Special Administrative Region

#### Article 48

The Central People's Government shall establish in the Hong Kong Special Administrative Region an office for safeguarding national security. The Office for Safeguarding National Security of the Central People's Government in the Hong Kong Special Administrative Region shall perform its mandate for safeguarding national security and exercise relevant powers in accordance with the law.

The staff of the Office shall be jointly dispatched by relevant national security authorities under the Central People's Government.

#### Article 49

The Office for Safeguarding National Security of the Central People's Government in the Hong Kong Special Administrative Region shall perform the following mandate:

- (1) analysing and assessing developments in relation to safeguarding national security in the Hong Kong Special Administrative Region, and providing opinions and making proposals on major strategies and important policies for safeguarding national security;
- (2) overseeing, guiding, coordinating with, and providing support to the Region in the performance of its duties for safeguarding national security;
- (3) collecting and analysing intelligence and information concerning national security; and
- (4) handling cases concerning offence endangering national security in accordance with the law.

#### Article 50

The Office for Safeguarding National Security of the Central People's Government in the Hong Kong Special Administrative Region shall perform its mandate in strict compliance with the law and be subject to supervision in accordance with the law. It shall not infringe upon the lawful rights and interests of any individual or organisation.

The staff of the Office shall abide by the laws of the Hong Kong Special Administrative Region as well as national laws.

The staff of the Office shall be subject to the supervision of the national supervisory authorities in accordance with the law.

#### Article 51

The Office for Safeguarding National Security of the Central People's Government in the Hong Kong Special Administrative Region shall be funded by the Central People's Government.

#### Article 52

The Office for Safeguarding National Security of the Central People's Government in the Hong Kong Special Administrative Region shall strengthen working relations and cooperation with the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region, the Office of the Commissioner of the Ministry of Foreign Affairs in the Hong Kong Special Administrative Region, and the Hong Kong Garrison of the Chinese People's Liberation Army.

#### Article 53

The Office for Safeguarding National Security of the Central People's Government in the Hong Kong Special Administrative Region shall establish a mechanism of coordination with the Committee for Safeguarding National Security of the Hong Kong Special Administrative Region to oversee and provide guidance on the work of the Hong Kong Special Administrative Region for safeguarding national security.

The working departments of the Office shall establish mechanisms for collaboration with the relevant authorities of the Region responsible for safeguarding national security to enhance information sharing and operations coordination.

#### Article 54

The Office for Safeguarding National Security of the Central People's Government in the Hong Kong Special Administrative Region and the Office of the Commissioner of the Ministry of Foreign Affairs in the Hong Kong Special Administrative Region

shall, together with the Government of the Hong Kong Special Administrative Region, take necessary measures to strengthen the management of and services for organs of foreign countries and international organisations in the Region, as well as non-governmental organisations and news agencies of foreign countries and from outside the mainland, Hong Kong, and Macao of the People's Republic of China in the Region.

#### Article 55

The Office for Safeguarding National Security of the Central People's Government in the Hong Kong Special Administrative Region shall, upon approval by the Central People's Government of a request made by the Government of the Hong Kong Special Administrative Region or by the Office itself, exercise jurisdiction over a case concerning offence endangering national security under this Law, if:

- (1) the case is complex due to the involvement of a foreign country or external elements, thus making it difficult for the Region to exercise jurisdiction over the case;
- (2) a serious situation occurs where the Government of the Region is unable to effectively enforce this Law; or
- (3) a major and imminent threat to national security has occurred.

#### Article 56

In exercising jurisdiction over a case concerning offence endangering national security pursuant to Article 55 of this Law, the Office for Safeguarding National Security of the Central People's Government in the Hong Kong Special Administrative Region shall initiate investigation into the case, the Supreme People's Procuratorate shall designate a prosecuting body to prosecute it, and the Supreme People's Court shall designate a court to adjudicate it.

#### Article 57

The Criminal Procedure Law of the People's Republic of China and other related national laws shall apply to procedural matters,

including those related to criminal investigation, examination and prosecution, trial, and execution of penalty, in respect of cases over which jurisdiction is exercised pursuant to Article 55 of this Law.

When exercising jurisdiction over cases pursuant to Article 55 of this Law, the law enforcement and judicial authorities referred to in Article 56 of this Law shall exercise powers in accordance with the law. The legal documents issued by these authorities on their decisions to take mandatory and investigation measures and on their judicial decisions shall have legal force in the Hong Kong Special Administrative Region. The institutions, organisations and individuals concerned must comply with measures taken by the Office for Safeguarding National Security of the Central People's Government in the Hong Kong Special Administrative Region in accordance with the law.

#### Article 58

In a case over which jurisdiction is exercised pursuant to Article 55 of this Law, a criminal suspect shall have the right to retain a lawyer to represent him or her from the day he or she first receives inquiry made by the Office for Safeguarding National Security of the Central People's Government in the Hong Kong Special Administrative Region or from the day a mandatory measure is taken against him or her. A defence lawyer may provide legal assistance to a criminal suspect or defendant in accordance with the law.

A criminal suspect or defendant who is arrested in accordance with the law shall be entitled to a fair trial before a judicial body without undue delay.

#### Article 59

In a case over which jurisdiction is exercised pursuant to Article 55 of this Law, any person who has information pertaining to an offence endangering national security under this Law is obliged to testify truthfully.

#### Article 60

The acts performed in the course of duty by the Office for Safeguarding National Security of the Central People's Government in the Hong Kong Special Administrative Region and its staff in accordance with this Law shall not be subject to the jurisdiction of