The Explanations on the “(Draft) Amendment to Annex I to the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China Concerning the Method for the Selection of the Chief Executive of the Hong Kong Special Administrative Region” and the “(Draft) Amendment to Annex II to the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China Concerning the Method for the Formation of the Legislative Council of the Hong Kong Special Administrative Region and its Voting Procedures”

(Translation)

The Standing Committee of the National People’s Congress:

I hereby provide explanations for the “(Draft) Amendment to Annex I to the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China Concerning the Method for the Selection of the Chief Executive of the Hong Kong Special Administrative Region” and the “(Draft) Amendment to Annex II to the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China Concerning the Method for the Formation of the Legislative Council of the Hong Kong Special Administrative Region and its Voting Procedures”.

In accordance with Article 7 of Annex I to the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China (“the Basic Law”), if there is a need to amend the method for selecting the Chief Executive of the Hong Kong Special Administrative Region (“HKSAR”), such amendments must be made with the endorsement of a two-thirds majority of all the members of the Legislative Council and the consent of the Chief Executive, and they shall be reported to the Standing Committee of the National People’s Congress (“the Standing Committee”) for approval. In accordance with Article III of Annex II to the Basic Law, if there is a need to amend the method for forming the Legislative Council of the HKSAR, such amendments must be made with the endorsement of a two-thirds majority of all the members of the Legislative Council and the consent of the Chief Executive, and they shall be reported to the Standing Committee for the record.

In accordance with “The Interpretation by the Standing Committee of the National People’s Congress of Article 7 of Annex I and Article III of Annex II to the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China” (“the Interpretation”) adopted by the Standing Committee of the Tenth National People’s Congress at its Eighth Session on 6 April 2004, the Chief Executive shall make a report to the Standing Committee as regards whether there is a need to amend the methods for
selecting the Chief Executive and for forming the Legislative Council, and the
Standing Committee shall, in accordance with the provisions of Articles 45 and
68 of the Basic Law, make a determination in the light of the actual situation in
the HKSAR and in accordance with the principle of gradual and orderly
progress.

On 11 July 2007, the HKSAR Government issued the Green Paper on
Constitutional Development to consult the public extensively on the options,
roadmap and timetable for implementing universal suffrage for the Chief
Executive and the Legislative Council. On 12 December 2007, the Chief
Executive, in accordance with the relevant provisions of the Interpretation,
submitted the “Report on the Public Consultation on Constitutional
Development and on whether there is a need to amend the methods for
selecting the Chief Executive of the Hong Kong Special Administrative Region
and for forming the Legislative Council of the Hong Kong Special
Administrative Region in 2012” (“the Report”) to the Standing Committee.

The Standing Committee of the Tenth National People’s Congress
considered at its Thirty-first Session the above Report, and adopted the
“Decision of the Standing Committee of the National People's Congress on
Issues Relating to the Methods for Selecting the Chief Executive of the Hong
Kong Special Administrative Region and for Forming the Legislative Council
of the Hong Kong Special Administrative Region in the Year 2012 and on
Issues Relating to Universal Suffrage” (“the Decision”) on 29 December 2007.

The Decision provides that “[T]he election of the fourth Chief
Executive of the Hong Kong Special Administrative Region in the year 2012
shall not be implemented by the method of universal suffrage. The election of
the fifth term Legislative Council of the Hong Kong Special Administrative
Region in the year 2012 shall not be implemented by the method of electing all
the members by universal suffrage. The half-and-half ratio between members
returned by functional constituencies and members returned by geographical
constituencies through direct elections shall remain unchanged. The
procedures for voting on bills and motions in the Legislative Council shall
remain unchanged. Subject to the aforementioned, appropriate amendments
conforming to the principle of gradual and orderly progress may be made to the
specific method for selecting the fourth Chief Executive of the Hong Kong
Special Administrative Region in the year 2012 and the specific method for
forming the fifth term Legislative Council of the Hong Kong Special
Administrative Region in the year 2012 in accordance with the provisions of
Articles 45 and 68, and those of Article 7 of Annex I and Article III of Annex II
to the Basic Law of the Hong Kong Special Administrative Region of the
People’s Republic of China.”
Following the adoption of the Decision by the Standing Committee, the HKSAR Government established a task group on constitutional development under the Commission on Strategic Development to promote discussion within the community on the two electoral methods for 2012. In order to collect views widely from different sectors of the community on the two electoral methods for 2012, the HKSAR Government published on 18 November 2009 the “Consultation Document on the Methods for Selecting the Chief Executive and for Forming the Legislative Council in 2012”, setting out the directions which might be considered regarding the key elements of the two electoral methods for 2012, and launched a three-month public consultation.

During the consultation period, the HKSAR Government listened extensively through a variety of channels to the views of the public, organizations and individuals from different sectors, the Legislative Council and District Councils on how the two electoral methods for 2012 should be amended. We received about 47200 written submissions, and more than 1.6 million signatures. We also monitored closely the relevant opinion polls conducted by various academic, community and media organizations as an important means to reflect public opinion. Generally speaking, the mainstream views within the community were clear: (1) there was a common wish to see progress being made in the constitutional arrangement in 2012; (2) 60% of the public supported the key elements about the two electoral methods for 2012 as set out in the consultation document; and (3) over half of the public supported passage of the Government’s proposed package for the 2012 elections by the Legislative Council.

After considering fully the views received, the HKSAR Government put forth on 14 April 2010 a package of proposals for the methods for selecting the Chief Executive and for forming the Legislative Council in 2012. The proposed package enhanced the democratic elements of the two elections for 2012, in accordance with the Basic Law and the Decision, as well as in compliance with the principle of gradual and orderly progress. Regarding the amendments to Annex I to the Basic Law concerning the method for selecting the Chief Executive, we proposed that: (1) the number of members of the Election Committee in 2012 be increased from 800 to 1200, and the number of members of the four sectors be increased by the same proportion, i.e. the number of seats for each sector be increased by 100, so as to maintain the principle of balanced participation; (2) the current nomination threshold be maintained at the ratio of one-eighth of the total membership of the Election Committee, i.e. the number of subscribers required shall be not less than 150. We have also made it clear to the public that of the four existing sectors, most of the new seats of the political sector would be allocated to elected District
Council members, so as to enhance the democratic elements of the electoral method, and that the specific arrangements would be dealt with in the context of local legislation.

Regarding the amendments to Annex II to the Basic Law concerning the method for forming the Legislative Council, we proposed that the number of seats in the Legislative Council in 2012 should be increased from 60 to 70, 35 seats to be returned by geographical constituencies through direct elections and 35 seats to be returned by functional constituencies. The ten new seats would be divided equally between directly-elected seats and functional seats. We have also made it clear that the five new functional seats would be allocated to the District Council Functional Constituency, so as to enhance the democratic elements of the Legislative Council, and that the specific arrangements would be dealt with in the context of local legislation.

The HKSAR Government submitted to the Legislative Council on 7 June 2010 its proposed package under two (Draft) Amendments, i.e. “(Draft) Amendment to Annex I to the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China Concerning the Method for the Selection of the Chief Executive of the Hong Kong Special Administrative Region” and “(Draft) Amendment to Annex II to the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China Concerning the Method for the Formation of the Legislative Council of the Hong Kong Special Administrative Region and its Voting Procedures”, by way of motions.

To strive to gain the support of the community for the proposed package, senior officials of the HKSAR Government engaged pro-actively members of the public within the community. Moreover, in order to secure the passage of the two motions by the Legislative Council so as to roll forward democracy in Hong Kong, the HKSAR Government had continued to communicate pro-actively with different political parties and groups of the Legislative Council and put forth amendment proposals regarding the detailed electoral arrangements for the five new District Council functional constituencies seats before the motions were put to vote at the Legislative Council. Eventually, the HKSAR Government managed to forge consensus, in the overall interest of Hong Kong, among different political parties and groups, as well as independent Members of the Legislative Council on the two electoral methods for 2012.

The Legislative Council commenced the debate on the above two motions on 23 June 2010, and voted on the motions concerning the amendments to the electoral methods for selecting the Chief Executive and for
forming the Legislative Council on 24 and 25 June respectively. The two motions both received 46 “yes” votes, and 13 and 12 “no” votes respectively, i.e. they were endorsed by a two-thirds majority of all the members of the Legislative Council.

As the Chief Executive, I consider that the above two (Draft) Amendments are consistent with the Basic Law and the relevant decision of the Standing Committee. Pursuant to Article 7 of Annex I to the Basic Law and Article III of Annex II to the Basic Law, I signed consents for the above two (Draft) Amendments on 29 June 2010.

This is the first time since the establishment of the HKSAR that, in accordance with the provisions in the Annexes to the Basic Law, the amendments to the electoral methods for the Chief Executive and the Legislative Council are passed within the HKSAR. This enables us to roll forward democracy in Hong Kong, and is also conducive to attaining the ultimate aim of universal suffrage as provided for in the Basic Law. The passage of the amendments to the two electoral methods for 2012 has complied with the requirement of rolling forward constitutional development through making gradual and orderly progress, responded to the mainstream views within the community, and created favourable conditions for implementing universal suffrage for the Chief Executive in 2017 and thereafter, for the Legislative Council in accordance with the Decision.

In accordance with Article 7 of Annex I to the Basic Law and the relevant decision of the Standing Committee, I hereby submit to the Standing Committee the “(Draft) Amendment to Annex I to the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China Concerning the Method for the Selection of the Chief Executive of the Hong Kong Special Administrative Region” for approval.

In accordance with Article III of Annex II to the Basic Law and the relevant decision of the Standing Committee, I hereby report to the Standing Committee the “(Draft) Amendment to Annex II to the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China Concerning the Method for the Formation of the Legislative Council of the Hong Kong Special Administrative Region and its Voting Procedures” for the record.

Chief Executive
Hong Kong Special Administrative Region
28 July 2010