

HKSAR Government strongly condemns the joint statement by the foreign ministers

A spokesman for the Hong Kong Special Administrative Region (HKSAR) Government today (November 19) firmly opposes and strongly condemns the joint statement by the foreign ministers of Australia, Canada, New Zealand, the United Kingdom and the United States in which deliberate misrepresentation was made regarding the decision by the Standing Committee of the National People's Congress (NPCSC) on the qualification of members of the Legislative Council (LegCo) of the HKSAR. These comments, irresponsible to the point of malice, are vivid proofs of blatant interference in Hong Kong matters which are squarely internal affairs of the People's Republic of China (PRC).

Hong Kong is an inalienable part of the PRC. Article 12 of the Basic Law of the HKSAR of the PRC stipulates that the HKSAR shall be a local administrative region of the PRC, which shall enjoy a high degree of autonomy and come directly under the Central People's Government (CPG). Article 104 of the Basic Law requires designated public officers including LegCo members, when assuming office, to swear to uphold the Basic Law and swear allegiance to the HKSAR in accordance with the law. Such requirements are also the legal prerequisite and conditions for an individual to run for election as prescribed in Hong Kong's relevant local legislation. Previous court rulings have confirmed that these legal prerequisites are substantive.

Indeed, swearing allegiance to the system of the country and upholding laws of the state is an international norm for public officers and any breach of the oath will not be tolerated. For instance, members of the United States (US) Congress must swear that they will support and defend the US Constitution or face criminal charges. In the United Kingdom, members of Parliament who refuse to take an oath of allegiance to the Crown cannot assume office. No country will turn a blind eye to the breaching of oaths or acts of treason by public officers including legislators.

By publicly criticising the resolute action of the CPG and the HKSAR Government to disqualify four LegCo members who have been confirmed in accordance with the law to have breached their oath, the five foreign ministers are clearly applying double standards.

Four members of the sixth-term LegCo, namely Mr Alvin Yeung, Dr Kwok Ka-ki, Mr Dennis Kwok and Mr Kenneth Leung, have submitted nomination to run for the 2020 LegCo General Election that was originally scheduled for September 6. Their nominations were invalidated by Returning Officers (ROs) before the end of the nomination period, and they hence lost the qualification for running for the election of the seventh-term LegCo. The ROs found that all four members solicited intervention by foreign governments or political authorities in relation to HKSAR's affairs whereas Mr Alvin Yeung, Dr Kwok

Ka-ki and Mr Dennis Kwok also expressed an intention to indiscriminately vote down any legislative proposals, appointments, funding applications and budgets introduced by the HKSAR Government after securing a majority in the LegCo so as to force the Government to accede to certain political demands. The ROs were of the view that the behaviour of these four persons was not in compliance with the declaration requirement under section 40(1)(b)(i) of the Legislative Council Ordinance (Cap. 542), i.e. to uphold the Basic Law and pledge allegiance to the HKSAR of the PRC.

In view of the severe epidemic situation of COVID-19, the HKSAR Government announced on July 31 that the 2020 LegCo General Election would be postponed for a year. To resolve the problem of a lacuna in the legislature arising from the postponement of the election of the seventh-term LegCo for a year, the NPCSC made a decision on August 11 that the sixth-term LegCo "will continue to discharge its duties for no less than one year until the commencement of the seventh-term LegCo of the HKSAR." That decision of the NPCSC focused only on the handling of the continued operation of the sixth-term LegCo, and did not touch on whether individual members of the sixth-term LegCo would be able to stay or not.

The four LegCo members were determined by ROs in accordance with the law to be unfit to stand in the LegCo election, because their prior conduct conflicted with the oaths of allegiance to the HKSAR and to uphold the Basic Law. This is obviously sensible and logical for if they are found to be unfit to stand for election to LegCo, it must follow that they are also unfit to continue to discharge their duties as members of the LegCo. As the above-mentioned issue involves the NPCSC's decision made on August 11 and its Interpretation of Article 104 of the Basic Law, the HKSAR Government could not have decided on the qualification of the four members on its own. Therefore, it requested the CPG to invite the NPCSC to resolve the problem from a constitutional perspective.

The NPCSC decision made on November 11 is constitutional, lawful and necessary. It set out clearly the consequences of LegCo members violating the legal prerequisites of "upholding the Basic Law of the HKSAR of the PRC" and "swearing allegiance to the HKSAR of the PRC". By stipulating that such consequences were applicable to LegCo members who were confirmed in accordance with the law to be ineligible to become candidates for LegCo election, it provided the solid legal basis for the HKSAR Government to announce their disqualification. It is a timely act to ensure the faithful implementation of "One Country, Two Systems" and safeguard the constitutional order of the HKSAR. There is no question of "destroying 'One Country, Two Systems' or a high degree of autonomy" as claimed by a few. The decision does not affect the rights and freedom, including freedom of speech and freedom of the press, enjoyed by the citizens of Hong Kong. The HKSAR Government denounces any such irresponsible remarks by foreign political figures.

The HKSAR Government yet again solemnly reminds the international community that foreign governments should stop their scaremongering and interfering in any form in the internal affairs of the HKSAR. They should respect the importance attached to peace, stability and prosperity by the

Hong Kong people under the principle of "One Country, Two Systems".