

LCQ8: The nomination of the Hong Kong members of the Committee for the Basic Law of the Hong Kong Special Administrative Region

Following is a question by the Hon James To and a written reply by the Secretary for Constitutional and Mainland Affairs, Mr Patrick Nip, in the Legislative Council today (November 21):

Question:

According to the Decision of the National People's Congress Approving the Proposal by the Drafting Committee for the Basic Law of the Hong Kong Special Administrative Region on the Establishment of the Committee for the Basic Law of the Hong Kong Special Administrative Region Under the Standing Committee of the National People's Congress, the Hong Kong members of the Committee for the Basic Law of the Hong Kong Special Administrative Region under the Standing Committee of the National People's Congress (BLC) shall be Chinese citizens who are permanent residents of the Hong Kong Special Administrative Region with no right of abode in any foreign country and shall be nominated jointly by the Chief Executive, the President of the Legislative Council and the Chief Justice of the Court of Final Appeal, for appointment by the Standing Committee of the National People's Congress (NPCSC) for a term of office of five years. BLC was established on July 1, 1997, and the current BLC is of the fifth term. Regarding the nomination of the Hong Kong members of BLC, will the Government inform this Council whether it knows:

- (1) how the nomination procedure is activated;
- (2) the qualifications, apart from meeting the aforesaid requirements, that Chinese citizens must possess before they will be considered for the nomination, and whether self-recommended persons will be considered for the nomination; if so, of the details; if not, the reasons for that; and
- (3) the number of nominees for each term of BLC and, among such nominees, the number of those who were not appointed by NPCSC (if any) and the reasons for that; whether a mechanism has been put in place for unappointed nominees to lodge appeals; if so, of the details; if not, the reasons and the legal basis for that, and whether it will put forward a proposal to the Central Authorities for establishing such a mechanism?

Reply:

President,

Our consolidated reply to the Hon James To's question is as follows:

On April 4, 1990, the Third Session of the Seventh National People's

Congress adopted the "Decision of the National People's Congress Approving the Proposal by the Drafting Committee for the Basic Law of the Hong Kong Special Administrative Region on the Establishment of the Committee for the Basic Law of the Hong Kong Special Administrative Region under the Standing Committee of the National People's Congress" (the Decision). The Decision includes approving the proposal by the Drafting Committee for the Basic Law of the Hong Kong Special Administrative Region (HKSAR) on the Establishment of the Committee for the Basic Law of the HKSAR (the Basic Law Committee) under the Standing Committee of the National People's Congress (NPCSC), and establishing the Basic Law Committee when the Basic Law of the HKSAR of the People's Republic of China (the Basic Law) is put into effect.

According to the Decision, the Basic Law Committee is a working committee under the NPCSC. Its function is to study questions arising from the implementation of Articles 17, 18, 158 and 159 of the Basic Law and submit its views thereon to the NPCSC. According to the Decision, the Basic Law Committee comprises 12 members, six from the mainland and six from Hong Kong, including persons from the legal profession, appointed by the NPCSC for a term of office of five years. Hong Kong members shall be Chinese citizens who are permanent residents of the HKSAR with no right of abode in any foreign country and shall be nominated jointly by the Chief Executive, President of the Legislative Council and Chief Justice of the Court of Final Appeal of the HKSAR for appointment by the NPCSC.

On June 22, 2018, the Third Session of the Thirteenth National People's Congress adopted the composition of the fifth Basic Law Committee, including Ms Maria Tam (Vice-chairperson), Mr Lau Nai-keung, Mr Albert Chen, Mr Johnny Mok, Mr Wong Yuk-shan and Dr Priscilla Leung as Hong Kong members.

The nomination and appointment of members of the Basic Law Committee follow the aforementioned procedures and principles. It is our established position that we will not publicly comment on the Government's communication with the Central Authorities.