

Decision of the Standing Committee of the National People's Congress on Approving the Co-operation Arrangement between the Mainland and the Hong Kong Special Administrative Region on the Establishment of the Port at the West Kowloon Station of the Guangzhou-Shenzhen-Hong Kong Express Rail Link for Implementing Co-location Arrangement (Adopted at the Thirty-first Session of the Standing Committee of the Twelfth National People's Congress on 27 December 2017)

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Editorial Notes:

1. This instrument was not given a chapter number under the Legislation Publication Ordinance (Cap. 614). An unofficial reference number, however, is assigned to this instrument in Hong Kong e-Legislation (<http://www.elegislation.gov.hk>) for identification purposes. This also enables users to carry out a search by reference to the unofficial reference number.
2. This English translation is prepared by the Government of the Hong Kong Special Administrative Region. It is for reference only and has no legislative effect. In case of differences between the Chinese text and the English translation, the Chinese text prevails.

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The Standing Committee of the Twelfth National People's Congress examined at its Thirty-first Session the motion submitted by the State Council requesting examination of the Draft Decision on Approving the Co-operation Arrangement between the Mainland and the Hong Kong Special Administrative Region on the Establishment of the Port at the West Kowloon Station of the Guangzhou-Shenzhen-Hong Kong Express Rail Link for Implementing Co-location Arrangement. In the course of its examination, the Standing Committee of the National People's Congress has fully considered the views of relevant parties of the Hong Kong Special Administrative Region and the Mainland concerning the establishment of the port juxtaposed at the Guangzhou-Shenzhen-Hong Kong Express Rail Link and the mode of conducting clearance and inspection.

The Session is of the view that the construction of the Guangzhou-Shenzhen-Hong Kong Express Rail Link and the realization of the inter-connection and mutual access between the Hong Kong Special Administrative Region and the national high-speed rail network are conducive to promoting interactions between the people of, and economic and trade activities between, the Hong Kong Special Administrative Region and the Mainland; conducive to the deepening of mutually beneficial co-operation between the Hong Kong Special Administrative Region and the Mainland; and conducive to the Hong Kong Special Administrative Region's further integration into the macro picture of national development. These have great significance for maintaining the long-term prosperity and stability of the Hong Kong Special Administrative Region. To fully unleash the high-speed rail's advantages of high speed and great efficiency, enable the vast number of passengers to fully enjoy fast and convenient service,

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and ensure the transport, economic and social benefits and efficiency of the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link, it is necessary to implement co-location arrangement at the West Kowloon Station of the Guangzhou-Shenzhen-Hong Kong Express Rail Link in the Hong Kong Special Administrative Region (“West Kowloon Station”) and to establish the Mainland Port Area for the specific purpose of conducting clearance and inspection on high-speed rail passengers and their personal belongings and luggage.

The Session is of the view that the Co-operation Arrangement is consistent with the principle of “one country, two systems” and is consistent with the Constitution and the Basic Law of the Hong Kong Special Administrative Region. Pursuant to the Constitution, the Basic Law of the Hong Kong Special Administrative Region authorizes the Hong Kong Special Administrative Region to exercise a high degree of autonomy, including implementing a separate immigration controls system etc. The making of an appropriate arrangement through consultation on issues relating to the establishment of a port at the West Kowloon Station and the implementation of co-location arrangement thereat by the Government of the Hong Kong Special Administrative Region with the relevant parties of the Mainland is a clear demonstration of the exercise of a high degree of autonomy by the Hong Kong Special Administrative Region in accordance with law. The establishment of the Mainland Port Area at the West Kowloon Station does not alter the boundary of the administrative division of the Hong Kong Special Administrative Region, does not affect the high degree of autonomy enjoyed by the Hong Kong Special Administrative Region in accordance with law, and does not undermine the rights and freedoms enjoyed by the residents

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of the Hong Kong Special Administrative Region in accordance with law. Out of the need to implement co-location arrangement at the West Kowloon Station, it is appropriate that the Co-operation Arrangement makes provisions for the delineation of jurisdiction (including jurisdiction of the courts) and the application of laws of the Mainland and the Hong Kong Special Administrative Region and expressly provides for the West Kowloon Station Mainland Port Area to be regarded as being situated in the Mainland. The authorities stationed by the Mainland at the West Kowloon Station Mainland Port Area will perform their duties and functions in accordance with the laws of the Mainland, strictly confined to the Mainland Port Area. This is different from the application of national laws in the entire Hong Kong Special Administrative Region under Article 18 of the Basic Law of the Hong Kong Special Administrative Region. The acquisition of the right to use the areas of the West Kowloon Station Mainland Port Area, the duration and the fees will be provided for in a contract to be entered into by the Government of the Hong Kong Special Administrative Region and the relevant Mainland authorities, and this is consistent with the provisions of Article 7 of the Basic Law of the Hong Kong Special Administrative Region regarding the ownership of the land of the Hong Kong Special Administrative Region and the management of its uses. The implementation of co-location arrangement at the West Kowloon Station is consistent with the requirements of the Basic Law of the Hong Kong Special Administrative Region that the Government of the Hong Kong Special Administrative Region should formulate appropriate policies to promote and co-ordinate the development of various trades and provide an appropriate economic and legal environment for promoting economic developments etc., and is consistent with the fundamental purposes of the “one country, two systems” principle and of the Basic Law of the Hong Kong Special Administrative Region.

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Pursuant to the Constitution of the People's Republic of China and the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, the Standing Committee of the National People's Congress decides as follows:

1. The Co-operation Arrangement signed by the People's Government of Guangdong Province and the Government of the Hong Kong Special Administrative Region on 18 November 2017 is hereby approved, and it is also hereby confirmed that the Co-operation Arrangement is consistent with the Constitution and the Basic Law of the Hong Kong Special Administrative Region.

The Hong Kong Special Administrative Region should enact legislation to ensure the implementation of the Co-operation Arrangement.

2. The establishment of the West Kowloon Station Mainland Port Area and its specific area are to be approved by the State Council.

The Mainland will exercise jurisdiction over the West Kowloon Station Mainland Port Area in accordance with the laws of the Mainland and the Co-operation Arrangement with effect from its

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commissioning date, and will station immigration inspection authority, customs authority, inspection and quarantine authority, integrated port administration authority and railway police authority thereat to perform duties and functions in accordance with law. The above-mentioned authorities and their personnel shall not enforce the law in any area outside the West Kowloon Station Mainland Port Area.

3. After the commissioning of the West Kowloon Station Port, any amendment to the Co-operation Arrangement shall be approved by the State Council and shall be reported to the Standing Committee of the National People's Congress for record.