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## Amendment of PRC Constitution

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## 1. Introduction

The highly anticipated annual plenary sessions, "national lianghui" (全国两会) or "two sessions", of the 13th National People's Congress (hereinafter "NPC") and the 13th National Committee of the Chinese People's Political Consultative Conference (hereinafter "NCCPPCC") took place on 3 and 5 March 2018 respectively. On this occasion, the NPC deliberated as to the amendment of the Chinese Constitution upon suggestion from the Communist Party of China (hereinafter "CPC"), the content of which had been made public on Sunday, 25 February 2018. The amendment was adopted at the first session of the 13<sup>th</sup> NPC with an "overwhelming majority", the previous constitutional amendment dating from 2004.

These constitutional amendments, of which Xi Jinping stressed the crucial importance, are aimed at developing China into a "great modern socialist country" and consist of dispositions that emphasize the strong socialistic ideology as well as constitutional modifications that will have very concrete consequences on the Chinese political system.

## 2. Significant political changes

### A. Abolishment of the two-term limit

Perhaps the most noteworthy amendment, which has attracted the greatest attention, concerns the reappointment of the President and Vice-President of the People's Republic of China (hereinafter "PRC"). In effect, the CPC suggested revising article 79 of the Chinese Constitution, which stipulates that "the term of office of the President and Vice-President of the People's Republic of China is the same as that of the National People's Congress, and they shall serve no more than two consecutive terms".

The amended clause will now only specify that "the term of office of the President and Vice-President of the People's Republic of China is the same as that of the National People's Congress", thus omitting the constraint of a maximum of two consecutive terms. The scrapping of the two-term limit will inevitably result in the

possibility for both the President and the Vice-President of the PRC to be elected for an undetermined amount of terms.

## **B. Listing of Supervision Commissions as State Organs**

The CPC Central Committee further suggested listing the supervisory commissions as a new type of state organs in the Constitution. Supervision commissions will henceforth be established in all provinces, autonomous regions, municipalities directly under the Central Government, autonomous prefectures, counties, autonomous counties, cities and districts under the jurisdictions of cities to exercise supervisory functions and powers, relevant functions of the supervision departments (bureaus) and bureaus of corruption prevention of local people's governments at and above the county level, and those of the departments of people's procuratorates that are in charge of investigating and handling crimes of corruption and bribery, dereliction of duty and of preventing occupational crimes are integrated in the Supervision Commission.

A supervision commission will, according to the authority of administration, perform the following functions and powers:

- supervise all public office holders exercising public authority within its regions pursuant to the law;
- perform the duties of supervision, investigation and handling, supervise and inspect public office holders in terms of them performing duties in accordance with the law, exercising public authority in an impartial manner, carrying out administration in a non-corrupt fashion and abiding by moral ethics, investigate occupation-related illegal and criminal acts such as alleged corruption and bribery, abuse of power, dereliction of duty, power rent-seeking, transfer of benefits, practice of favoritism for personal gains and waste of State assets, and make handling decisions thereon; and
- refer cases suspected of constituting occupational crimes to procuratorial organs for public prosecution pursuant to the law.

As a result of the amendment, supervisory organs will be listed together with administrative, judicial and procuratorial organs of the State, all of which are created by the people's congresses to which they are responsible and by which they are supervised.

### **C. Oath of allegiance**

The CPC has formulated the proposition of including the obligation of pledging allegiance to the Constitution. Following the adoption of the Constitutional amendment, all state functionaries, when assuming office, will be required to publicly swear an oath of allegiance to the Constitution.

### **D. New cabinet function**

The CPC Central Committee proposed to list ecological advancement as a new function and power of the State Council, or cabinet.

Apart from economic affairs and urban and rural development, the State Council also has the function and power of directing and administering ecological advancement, according to a proposed change to a clause under Article 89.

In recent years, China has included the concept of the construction of an ecological civilization in new "Environment Protection Law", "Atmospheric Pollution Prevention and Control Law" and "Wild life Protection Law". The fact of adopting the consecration of ecological advancements in the Constitution clearly demonstrates China's willingness to become more committed to environmental protection alongside with other developed countries.

### **E. More cities with legislative power**

Following the amendment of the Constitution, Chinese cities with subordinate districts are granted the power to make local laws and regulations. The people's congresses and their standing committees of these cities are from now on empowered to adopt local laws and regulations under the condition that they do not contradict the Constitution, national laws and regulations, and provincial laws

and regulations. The local laws and regulations will take effect after being approved by the standing committees of provincial-level people's congresses.

### 3. Expression of ideological guideline

#### A. Incorporation of *Xi Jinping Thought*

After *Mao Zedong Thought* and *Deng Xiaoping Theory*, it's Xi Jinping's turn to have his *Thought on Socialism with Chinese Characteristics for a New Era* consecrated in the Constitution of the PRC's preamble. These "Thoughts", as well as the *Scientific Outlook on Development* will now be incorporated in the country's fundamental law, as the following:

*"(...) under the leadership of the CPC and the guidance of Marxism-Leninism, Mao Zedong Thought, Deng Xiaoping Theory, the Theory of Three Represents, **the Scientific Outlook on Development, and Xi Jinping Thought on Socialism with Chinese Characteristics for a New Era**, the Chinese people of all ethnic groups will continue to adhere to the people's democratic dictatorship and the socialist road, persevere in reform and opening to the outside world, steadily improve socialist institutions, develop the socialist market economy, develop socialist democracy, improve the socialist rule of law, apply a new vision of development and work hard and self-reliantly to modernize the country's industry, agriculture, national defence and science and technology step by step and promote the coordinated development of the material, political, cultural and ethical, social and ecological advancement, **to turn China into a great modern socialist country** that is prosperous, strong, democratic, culturally advanced, harmonious, and beautiful and realize national rejuvenation."*

This constitutional addendum, symbolically strong, contributes to give even more weight to Xi Jinping's authority and emphasizes China's will to pursue a socialistic ideology guideline towards its modernization.

## **B. Reinforcement of harmonious relations between ethnic groups**

In its pursuit of national unification, the NPC has enriched clauses from the Constitution to ensure harmonious relations amongst the different ethnic groups. It is planned to strengthen values such as equality, unity and mutual assistance between the various nationalities. The article 4 of the Constitution of the PRC concerning Chinese ethnic groups is revised to consolidate the protection of the rights and interests particularly of ethnic minorities by the State.

## **C. A Community with a shared future for humanity**

The CPC, with the aim of affirming China's willingness to pursue a policy of openness to the world, suggested adding to the Constitution the expression that China will "adhere to the peaceful development path and the mutually beneficial strategy of opening-up". The revised section of the Preamble expresses the PRC's willingness to engage in diplomatic relations as well as economic and cultural exchanges with an open-minded policy while ensuring relations that will benefit both parties with the aim to "build a community with a shared future for humanity".

## **D. Core socialist values and CPC leadership**

Provisions are added to the Constitution advocating core socialist values and the civic virtues of love of the motherland, of the people, of labor, of science and of socialism.

A sentence emphasizing the importance of the Communist Party's leadership is also included in the Constitution such as:

"The leadership of the Communist Party of China is the defining feature of socialism with Chinese characteristics"

## **E. "Law Committee" name revision**

Subsequent to the Constitutional Amendment, the "Law Committee" was changed to "Constitution and Law Committee". This change puts emphasis on the

importance of the Constitution. The Constitution and Law Committee shall perform the functions of deliberating legislative bills and constitutional review.

#### 4. Conclusion

Following the deliberations on the review of the Constitution, the outcome of which could easily be foreseen, and the amendment of the Constitution, the most significant change is undoubtedly the removal of the presidential two-term limit and the ever so prominent pro-socialist party line.

It's no secret that behind this constitutional amendment lie critical political interests. President Xi Jinping, whose term was due for an end by the year 2023, will now be eligible for re-election as long as his health will permit it.

This reform perceived by some as a desirable and necessary strategy to improve the state leadership system and ensure stability and continuity in China's policy is seen by other more critical eyes as the intention of the Chinese President to establish himself as "*Emperor of China*". The stability praised by Xi Jinping's supporters is maintained through an increasingly threatening policy of censorship and it is undeniable that we are currently witnessing the establishment of a genuine cult of personality in favor of President Xi Jinping, all of this in a context of growing nationalism.

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