

商務及經濟發展局局長

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SECRETARY FOR COMMERCE  
AND ECONOMIC DEVELOPMENT

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By Fax (2509 0775)

23 March 2015

Hon Andrew LEUNG Kwan-yuen, GBS, JP  
Chairman  
House Committee  
Legislative Council Complex  
1 Legislative Council Road, Central  
Hong Kong

Dear Mr Leung,

**Resolution to be made relating to the establishment  
of the Innovation and Technology Bureau**

In view of the Legal Service Division's concerns as regards the legal status of the resolution made and passed by the Legislative Council on 29 October 2014 to effect the transfer of statutory functions for the establishment of the Innovation and Technology Bureau (hereafter referred to as "the original Resolution"), we write to inform you that we will not proceed further with the proposed resolution to amend the commencement clause of the original Resolution ("hereafter referred to as "the Amending Resolution"). We will introduce another resolution to repeal the original Resolution as well as a fresh resolution for the transfer of the statutory functions in question in due course.

This is solely to avoid time being unnecessarily spent on argument over a technical legal issue, and hence to expedite the legislative process. This does not prejudice our position that the original Resolution is valid and subsisting, and thus could be amended by the Amending Resolution. Our decision not to proceed with the Amending Resolution should not be regarded as a precedent.

The legal technical issue relates to the question of whether the original Resolution is still valid and subsisting and thus is capable of being amended by the Amending Resolution. We would like to draw your attention to the Air Pollution Control (Amendment) Ordinance 1993 (13 of 1993) (the Amendment Ordinance), which could not commence because an event provided under its commencement provision (i.e. the Secretary for Planning, Environment and Lands (SPEL) to appoint a commencement date) could no longer happen because SPEL was renamed as the Secretary for Planning and Lands in 1999. The commencement provision was later amended by another Ordinance by substituting the reference of SPEL with "Secretary for the Environment" in 2012, such that the un-commenced provision of the Amendment Ordinance could be brought into operation.

We reiterate our stance that the original Resolution is valid and subsisting, and we will continue to adopt the approach in the Amendment Ordinance to amend commencement provisions in future similar cases such that the un-commenced legislation concerned could be brought into operation.

Please let us know if you need any further information.

A handwritten signature in black ink, appearing to read "Greg So". The signature is stylized with a large, sweeping initial "G" and a long, horizontal stroke extending to the right.

( Greg So )

Secretary for Commerce and Economic Development

c.c. Clerk to Subcommittee (Attn: Ms Yue Tin-po (By Fax: 2840 0269))