



香港中區
立法會道一號
立法會
經濟發展事務委員會主席
田北俊議員

田主席：

跟進南丫海難政府調查報告

2012年10月1日，南丫島海難事故奪去39條人命，政府已就事故中有否涉及政府內部不適當行為完成調查，雖然運房局局長曾表示會公開政府調查報告，但最終局長決定遮蓋報告部分內容，並要求立法會議員簽署保密承諾書，才讓議員在運房局安排的閉門房間內閱覽經遮蓋的調查報告。

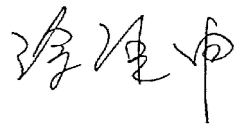
海難事故涉及公眾利益，原則上，政府應公開該調查報告。就算政府要求議員簽署保密承諾書，過去也曾出現過，但都沒有像今次提出極其嚴苛的條款，例如不准筆錄或用其他方法記錄報告的資料。後經議員反對，政府才稍為放寬，准予筆錄，但仍不准議員帶同其他文件包括倫明高法官的調查委員會報告一起閱覽。保密安排大大阻礙議員了解報告的內容，窒礙議員履行其職責，以了解事故的真相及如何加強輪船和海上安全，預防事故再次發生。

更甚者，保密條款訂明有四個例外情況，包括所披露的資料已為收取資料的人所知悉，但議員卻先要向局長取得書面批准。但當本人分別於2015年10月29日和2015年12月14日，致函局長，要求按保密承諾書第2.3條的規定，作出書面決定，以讓本人可援引第2.2(b)條所列的特定例外情況，向海難家屬古鄭月娥女士(她已透過法律程序取得該調查報告)，披露本人經閱覽調查報告後所知悉的內容，以便進行討論，政府卻一直未批出書面決定，至今已三個月。此舉無疑是要利用行政手段阻撓議員協助海難家屬，置家屬需要於不顧，亦無視保密承諾書的規定，令人極之憤慨！

為此，本人希望 主席能考慮盡快在經濟發展事務委員會上跟進南丫海難的政府調查報告，特別是討論如何放寬保密承諾書的限制，以讓更多議員能接受有關條款和安排，以及如何在保密原則下，安排會議討論政府調查報告，讓議員可履行其職責，就報告向政府官員提出問題，並讓政府官員向議員解說報告的內容和回答議員的提問。

政府的調查報告正文有 436 頁，另有 347 份附錄(包括 52 項會面錄音記錄的已遮蓋謄本)，政府又把報告部分內容遮蓋，經濟事務委員會確有需要安排會議，作出詳細討論，議員才可了解當中有否涉及政府有不適當行為，並提出改善建議，以避免事故重現而令港人生命受損，並確保香港的海上安全，謹此為盼！

如有查詢，請聯絡議員助理鄭慕貞女士，電話：28699530。謝謝！



立法會議員涂謹申謹啟

2016 年 2 月 1 日

附件：保密承諾書樣本

Confidentiality Undertaking
保密承諾書

Date 日期:

I, _____ (name) of _____ (correspondence address) in consideration of the Government of the Hong Kong Special Administrative Region (“**the Government**”) agreeing to make available true copy of the Report of the Transport and Housing Bureau’s Investigation into Staff Conduct in the Marine Department in relation to the Vessel Collision Incident near Lamma Island on 1 October 2012 (“**Report**”) for my perusal in the manner provided for in Clause 6 below and solely in my capacity as a member of the Legislative Council (“**LegCo**”), I hereby irrevocably undertake and fully acknowledge and agree as follows:

本人， _____，通訊地址為 _____

_____ 基於香港特別行政區政府(“政府”)同意按下述第6條訂定的方式提供《運輸及房屋局就2012年10月1日南丫島附近撞船事故對海事處人員行為的調查報告》(“《報告》”)的真實副本，讓本人僅以立法會議員的身分細閱，本人現作出以下不可撤銷的承諾，並完全確認和同意以下條款：

- 1 The Report is to be made available for my perusal subject to the terms of this Undertaking and shall remain the property of the Government. I have no proprietary interest whatsoever in the Report or any part thereof. (For the avoidance of doubt, the reference to the Report herein includes any copy or copies of the Report made available to me or other LegCo members for perusal pursuant to this Undertaking.)

《報告》將在本承諾書的條款規限下提供予本人細閱，並一直屬政府財產。本人對《報告》或其任何部分沒有任何所有人權益。(為免生疑問，本承諾書中提述的《報告》包括依據本承諾書提供予本人或其他立法會議員細閱的任何副本。)

- 2 I hereby fully acknowledge and irrevocably undertake in favour of the Government the following duty of confidentiality:

本人現完全確認，並向政府就以下的保密責任作出不可撤銷的承諾：

- 2.1 All the contents of the Report (including those in the main body and appendices and any part thereof) to be made available for my perusal by or on behalf of the Government shall be treated as confidential information (“**Confidential Information**”).

政府或其代表提供予本人細閱的《報告》的所有內容(包括正文、附錄及兩者任何部分的内容)須視為機密資料(“機密資料”)。

- 2.2 I shall not, during the course of perusal of the Report or at any time thereafter, disclose to any person the Confidential Information or any part thereof, provided that the restrictions on disclosure contained herein shall not apply to:

在本人細閱《報告》期間或其後的任何時間，本人不得向任何人士披露機密資料及其任何部分，但此披露限制不適用於下述情況：

- (a) the disclosure of any information which is or has become public knowledge other than as a result of unauthorised disclosure by me in

breach of the confidentiality obligation contained herein;

所披露的資料是或已為公眾知悉，而非因本人在違反在本文所載的保密責任下未經授權而披露所致；

- (b) the disclosure of any information already known to the recipient other than as a result of unauthorised disclosure by me in breach of the confidentiality obligation contained herein;

所披露的資料已為收取該等資料的人所知悉，而非因本人在違反本文所載的保密責任下未經授權而披露所致；

- (c) the disclosure of any information which is compelled by the law of the Hong Kong Special Administrative Region (“the HKSAR”) or an order of a court or tribunal of competent jurisdiction of the HKSAR; and

根據香港特別行政區(“香港特區”)法律或具有司法管轄權的香港特區法院或審裁處所頒的命令而強制披露的資料；以及

- (d) the disclosure of any information with the prior written consent of the Government.

所披露的資料經政府事先書面同意披露。

For the purposes of this Undertaking, “person” includes any individual, corporation, firm, organization, public body or statutory body whether incorporated or unincorporated.

就本承諾書而言，“人士”包括任何個人、法團、商號、組織、公共機構或法定團體，不論其是否成立為法團。

- 2.3 In the event I seek to invoke or rely on the exception set out in Clause 2.2(a) or (b) above, I shall first seek the written determination by the Government. The Government shall have the right to determine in good faith at any time whether any information is within the scope of Clause 2.2(a) or (b) above and I shall fully comply with that determination. The confidentiality obligation remains until and unless the Government confirms in writing that the information sought to be disclosed by me falls within the scope of the exception set out in Clause 2.2(a) or (b) above.

如本人謀求援引或倚據上文第2.2(a)或2.2(b)條所列的例外情況，本人承諾會首先要求政府作出書面決定。政府有權在任何時間真誠地決定任何資料是否屬於上文第2.2(a)或2.2(b)條的範圍之內，本人承諾會完全遵從該決定。除非及直至政府以書面確認本人謀求披露的資料屬於上文第2.2(a)或2.2(b)條的範圍之內，本人仍須履行保密責任。

- 2.4 I shall not copy, take notes, record or reproduce the Confidential Information or any part thereof by any means without the prior written consent of the Government, save and except by taking notes on the papers provided by the Government at the Venue (as defined in Clause 6.1 below).

未經政府事先書面同意，本人不得以任何方式複製副本、筆錄、記錄或複製機密資料或其任何部分，但使用由政府(在下述第6.1條所界定的)該地點提供的紙張作記錄或筆記除外。

- 2.5 I shall not without the prior written consent of the Government publish (or procure or facilitate the publication of) the Confidential Information or any part thereof, either alone or in conjunction with any other person, in any press release, newspaper, magazine, journal, periodical, book, film, video, pamphlet, leaflet or by broadcasting on television, cable, satellite, Internet, or any other medium now known or devised after the date of this Undertaking or by publication or communication in any manner to any person.

未經政府事先書面同意，本人不得單獨或聯同其他人士在任何新聞稿、報章、雜誌、學報、期刊、書籍、影片、錄影、小冊子、單張發布(或促致或利便發布)機密資料或其任何部分，或藉電視、有線傳播、衛星、電腦互聯網或任何其他現知或於本承諾書日期後設計的媒介廣播，或向任何人士以任何方式發表或傳達機密資料或其任何部分。

- 2.6 I shall under no circumstances whatsoever discuss in any manner or otherwise communicate with any person, make any statement or comment, express any views or opinions regarding any matter related to or in connection with the Confidential Information or any part thereof except:

不論在任何情況，本人不得就關於或與機密資料或其任何部分有關連的任何事項，與任何人士以任何方式討論或以其他方式溝通、作出任何陳述，或評論或表達任何觀點或意見；但以下情況則屬例外：

- (a) at any meetings of the LegCo and/or any panels or committees (including but not limited to the Panel on Economic Development) of the LegCo which are conducted in camera and not open to the public, and which are attended only by LegCo members who have signed a confidentiality undertaking in the same terms as this Undertaking;

在以閉門及非公開形式進行的立法會及/或任何事務委員會或委員會(包括但不限於經濟發展事務委員會)的會議，並只有已簽署與本承諾書條款相同的保密承諾書的立法會議員出席；

- (b) at any other meetings attended only by LegCo members who have signed a confidentiality undertaking in the same terms as this Undertaking, and in such circumstances as will ensure that the Confidential Information or any part thereof will not be disclosed to any person other than those LegCo members who take part in such meetings.

在其他只有已簽署與本承諾書條款相同的保密承諾書的立法會議員出席的任何會議；在此情況下，須確保機密資料或其任何部分不會披露予出席這些會議的立法會議員以外的任何人士。

- 3 Save for the purpose of discussions set out in Clause 2.6(a) or (b) above, I shall not make use of the Confidential Information or any part thereof in any other way or in any capacity other than my capacity as a LegCo member.

除為了上文第2.6(a)或2.6(b)條所述的討論外，本人不得以任何其他方式或以立法會議員以外的任何身分使用機密資料或其任何部分。

- 4 I acknowledge and agree that the opportunity to peruse the Report is given to me personally and I shall not authorise any other person to peruse the Report on my behalf.

本人確認和同意僅由本人親自細閱《報告》；本人不得授權其他人士代本人細閱

《報告》。

- 5 I acknowledge and agree that certain parts of the Report (including those in the main body and appendices) will have to be redacted in order to comply with the Personal Data (Privacy) Ordinance (Cap. 486) and/or such other legal obligations as may be necessary.

本人確認和同意，基於須遵守《個人資料(私隱)條例》(第486章)及/或其他所需的法律責任，《報告》的某些部分(包括正文及附錄的某些部分)必須遮蓋。

- 6 I hereby irrevocably undertake and agree that the following rules and provisions are applicable to my perusal of the Report:

本人現作出不可撤銷的承諾，並同意以下的規則和條文適用於本人細閱《報告》的安排：

- 6.1 I can only read the Report on such days and during such hours as arranged by the Transport and Housing Bureau (“**THB**”). All parts of the Report to be made available to me for perusal must be read in a venue to be arranged by THB (“**Venue**”). I must return all parts of the Report to the coordinator appointed by THB (“**Coordinator**”) every time when I leave the Venue.

本人只可在運輸及房屋局(“**運房局**”)所安排的日期和時間細閱《報告》。提供予本人細閱的《報告》的所有部分，必須在運房局所安排的地點(“**該地點**”)細閱。本人每次離開該地點時，必須向運房局委任的統籌人(“**統籌人**”)歸還《報告》的所有部分。

- 6.2 I must, on each and every occasion I seek to peruse the Report, record my presence by signing in and out in a register to be provided by the Government.

本人每次索閱《報告》時，必須在政府提供的登記冊上簽署，記錄本人的出入。

- 6.3 I shall not bring any bag, suitcase or other receptacle into the Venue.

本人不得攜帶任何袋、手提箱或其他盛器進入該地點。

- 6.4 In no circumstances articles or electronic instruments for recording (including but not limited to digital pens, paper, journals and notepads), voice recorders, dictating machines, fax machines, scanners, copiers, computers, laptops, tablets, mobile phones, smartphones, smartwatches, cameras of any kind (including but not limited to mobile phone cameras, pen cameras and glasses with camera functions), audio recording devices, video recording devices, audio-visual recording devices, mobile or other communication or recording devices be permitted into the Venue and these must be declared and deposited with the Coordinator on arrival. For the avoidance of doubt, non-electronic writing instruments (such as pens, pencils) are permitted into the Venue.

在任何情況下，不得攜帶可用作記錄的物品或電子儀器(包括但不限於數碼筆、紙、議事錄和記事簿)、錄音機、口述錄音機、傳真機、掃描器、影印機、電腦、手提電腦、平板電腦、流動電話、智能電話、智能手錶、任何種類的攝影機(包括但不限於有攝影功能的流動電話、錄影筆和有攝影功能的眼鏡)、錄音器材、錄影器材、錄音錄影器材、流動或其他的通訊或記錄器材進入該地點。以上物件必須在本人到達該地點時申報並交由統籌人存放。為免生疑問，可攜帶非電子書寫工具(例如筆、鉛筆)進入該地點。

- 6.5 I must not in any way or by any means mark, annotate, modify, amend, vary (including varying the sequence thereof), damage, deface or destroy the Report or any part thereof.

本人不得以任何方式或任何途徑標記、註釋、修改、修訂、更改(包括更改其次序)、損壞、污損或銷毀《報告》或其任何部分。

- 6.6 Any part of the Report which is bound or is contained in a ring binder in a particular sequence must not be removed from the binder in which they are held. Any part of the Report contained loose in a file or a folder may be removed for viewing but must be replaced in the same place and manner in which they were found after perusal.

若《報告》的任何部分依特定的次序裝訂或裝載於活頁夾，不得將該部分從所裝訂或裝載的文件夾移走。若《報告》的任何部分散裝於任何檔案或文件夾內，細閱時可將該部分從檔案或文件夾移走，但必須在細閱後按原先方式放回原處。

- 6.7 I must confirm, before departing the Venue, that all parts of the Report provided to me for perusal and any notes taken by me have been returned to the Coordinator.

本人承諾會在離開該地點前確認已向統籌人歸還提供予本人細閱的《報告》之所有部分和本人的所有記錄或筆記。

- 6.8 The notes so taken by me shall be sealed and kept in the custody of THB until the expiry of this Undertaking, save that I can make prior appointment with THB for perusal.

本人上述作出的記錄或筆記將由運房局封存和保管直至本承諾書期滿失效，但本人可事先向運房局安排細閱本人的記錄或筆記。

- 6.9 In the event of any breach of this Clause or any other provisions of this Undertaking, the Government or the Coordinator is entitled to refuse access to the Report or to demand me to leave the Venue immediately.

如有任何違反本條款或本承諾書的任何其他條文，政府或統籌人有權拒絕讓本人細閱《報告》或要求本人立即離開該地點。

- 7 Each of the provisions of this Undertaking is severable and distinct from the others and, if one or more of such provisions or any part thereof is or becomes illegal, invalid or unenforceable, the legality and enforceability of the remainder of this Undertaking shall not be affected or impaired in any way.

本承諾書的每項條文均可與其他條文分割成獨立的條文；若其中一項或多於一項條文或其任何部分屬於或變成不合法、無效或不能強制執行，本承諾書的其他條文的合法性及可強制執行方面均不會受到任何影響或損害。

- 8 I agree that in the event of any actual breach or threatened breach of any of the provisions in this Undertaking and where monetary damages are unlikely to be a sufficient remedy, the Government shall be entitled (subject to the discretion of the Court) to an injunction to restrain the said breach or threatened breach in addition to and not in lieu of any other relief (whether equitable, legal or otherwise) including damages and specific performance.

若有任何實際違反或威脅違反本承諾書任何條文的行為，而金錢上的損害賠償可能不足以作為補救，本人同意政府有權以強制令禁制該違反或威脅違反行為(但須受法院的酌情權所規限)，作為附加於而非代替任何其他濟助(不論在衡平法上、在法律上或其他)，包括損害賠償和強制履行令。

- 9 The Government shall be entitled to enforce any or all of its rights under this Undertaking either alone or jointly with the other.

政府有權單獨或聯同他人強制執行本承諾書下的任何或所有權利。

- 10 The undertakings and obligations set out herein shall continue until the entire Report is made available to the general public by the Government or the Government informs me in writing that it will no longer enforce this Undertaking (whichever is the earlier).

本承諾書所列的承諾和責任須持續予以履行，直至政府向公眾公開整份《報告》或政府以書面通知本人不再強制執行本承諾書為止(兩者以較早者為準)。

- 11 This Undertaking shall be governed by and construed in accordance with the laws of the HKSAR.

本承諾書受香港特區法律管限，並須按照香港特區法律解釋。

- 12 The Courts of the HKSAR shall have exclusive jurisdiction to hear and decide any suit, action or proceedings, and to resolve any disputes, which may arise out of or in connection with this Undertaking and, for these purposes, each party hereto agrees to submit to the exclusive jurisdiction of the Courts of the HKSAR.

香港特區法院具專有司法管轄權聆訊和裁決任何可能因本承諾書引起或與其有關的訟案、訴訟或法律程序，以及解決任何可能因本承諾書引起或與其有關的爭議。為此，本承諾書各方同意接受香港特區法院的專有司法管轄權管轄。

- 13 Both Chinese and English versions are intended to be authentic versions and are of equal weight. In the event of any inconsistency in the Chinese and English versions, the English version shall prevail.

中文本和英文本均為同等重要的真確本。中文本及英文本如有不符，以英文本為準。

Signed by [name])
in the presence of :)
由 [姓名])
在見證人面前簽署:)

Signature of witness 見證人簽署

Name of witness 見證人姓名 :

Address of witness 見證人地址 :