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5 May 2003

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by fax and by mail
(fax: 2877 5029)

Dear Miss Fung

Tung Chung Cable Car Bill

**Response to Questions Raised by the Assistant Legal Advisor
of LegCo in the letter dated 29 April 2003**

I refer to your letter dated 29 April 2003 and the questions on the provisions of the Bill therein. Our response is as follows.

Part 7

Para(a): As we explained in the meeting of the Bills Committee held on 28 April 2003, and in our letter of 13 March 2003 to the ALA, the phrase "all other relevant legislation" in clause 24(2)(a) is intended to be a catch-all provision relating to the operation and maintenance of the Cable Car System. The clause is further qualified by sub-clauses (2)(c) to (e), i.e. the failure or likely failure to comply with the relevant legislation is likely to result in a breakdown of the Cable Car System or cause death or serious injury to the passenger. Therefore, we consider that it is not necessary to spell out all the relevant legislation. Indeed, we consulted MTR Corporation Limited (MTRCL) on the provisions of the Bill. MTRCL is content with the provision.

Para (b): We consider that the context of clauses 29(5), 30 and 31 is clear such that they apply to the body which is “the Company” at the time when those provisions come into play. In addition, the proposed amendment to the definition of “Company” should also remove any possible ambiguity. Accordingly, we consider that it is not necessary to further amend the Bill to model on the provisions of other legislation quoted.

Para (c): The Government will pay to the Company the residual value of the assets of the Company vested in the Government upon termination of the franchise. It is our intention that such payment should be made under any of the circumstances of termination as set out at sub-clauses 28(1)(a) to (d). It is not necessary to model on the provisions of the other BOT legislation quoted.

Para (d): The amount payable by the Government to the Company under clause 30 upon expiry of the franchise period will be calculated in accordance with the Project Agreement. Clause 33 provides that any dispute between the Company and the Government regarding the operation of the Project Agreement be resolved by arbitration. Accordingly, disputes, if any, on the amount payable on expiry of the franchise will be resolved by arbitration.

Schedule

Under the proposed new clause 16(2) (Committee Stage Amendments), the Secretary may amend the Schedule by notice in the gazette if a body corporate is designated as the Company under the proposed new clause 27(7)(b).

Chinese text

Definition of “level 2” and “level 3”

We agree to amend the Chinese text to add “分別” in the definition of “level 2” and “level 3”.

Clause 30

We have considered the draft proposed by ALA. However it is difficult to make the sentence structure of the English and Chinese texts match completely without sacrificing language flow. In trying to do so, it may also be necessary to add concepts / terms to the Chinese text which are not found in the English text. Accordingly, we do not propose to make any amendment to this clause.

Clause 31

We agree to amend the Chinese text as proposed by the ALA.

Amendments to the Land Tribunal Rules (Cap. 17 sub. leg. A)

Noted. We would reflect the ALA's comment regarding the need to amend the Lands Tribunal Rules (Cap. 17 sub. leg. A) to the Judiciary Administrator.

Committee Stage Amendments (CSAs)

The English version of the CSAs is attached for your further action please. The Chinese version will be forwarded to you soon.

Yours sincerely

(Miss Joan Hung)
for Secretary for Economic Development and Labour

Encl.(7 pgs)

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