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(English version only)

21st May 2013

The Hon Starry Lee Wai-king JP
Chairman
Bills Committee on Stamp Duty (Amendment) Bill 2013
Legislative Council Complex
1 Legislative Council Road, Central, Hong Kong

Dear Ms Lee,

Submission on the Proposed Stamp Duty (Amendment) Bill 2013 by the British Chamber of Commerce in Hong Kong

The proposed Stamp Duty (Amendment) Bill 2013 to double the ad valorem Stamp Duty rates (commonly known as Double Stamp Duty) on **BOTH residential and non-residential** (including office premises) properties first announced by the administration on 22 February 2013 has raised considerable concerns in the British business community in Hong Kong. Following are the key high level issues that the British Chamber of Commerce would like the Legislative Council to address as the Bills Committee review the proposed legislation:

1. Adverse effects of the legislative change on Hong Kong's business environment

There appears to be a general level of public acceptance of the Government's measures to curb speculation in the property market. This is fundamentally on the basis that the measures are structured so that Hong Kong permanent residents without an existing residential property will not be affected, thereby allowing such persons to purchase one property, which they can therefore use.

However, in the business sector significant concerns from (small, medium and large, local Hong Kong and international) businesses based in Hong Kong have been raised about the impact of doubling the stamp duty payable on non-residential commercial property transactions in cases where the acquisition is

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clearly not speculative in nature, such as when a business is buying, for example, an office for its own use as a sound business decision to control a significant component of its Hong Kong operating expenses.

If the proposed stamp duty measures are not directed solely to speculators in the non-residential market, the proposals could have much broader and perhaps unintended business sector consequences. The proposed increase in the stamp duty may have an unintended consequence on investors acquiring office (non-residential) property for long term investment and / or their own use.

The Government's proposed measures (which are subject to a Bills Committee process, which started on 17 April 2013) **should not penalise genuine investors in office property looking to hold commercial property as a long-term investment as a strategic business decision.** Such investors are clearly not speculators in the market and, therefore, as with a permanent resident acquiring a residential property, they should be carved out of the proposed doubled stamp duty. From review, this is the approach that Singapore has also taken earlier this year.

Investors may acquire commercial property for either their own use or for other long-term investment purposes.

By way of illustration, investors may acquire commercial office space as a long-term hedge against future increases in rental costs, as the British Chamber did in 2003. In Hong Kong, commercial occupiers operate within the following market constraints:

a. Despite falls in rental levels over the past 12 months, Hong Kong remains, by a considerable margin, the most expensive office market in the world. By way of contrast, rental levels in Singapore are less than half those in Hong Kong (Singapore is 19th on the list)[1].

b. The current vacancy rate for office space is lower than it has been for the past 18 years, at around 3%, with insufficient supply being projected for the remainder of this decade[2]. Only two commercial sites are currently available for sale in the Government's land programme.

These constraints detract from Hong Kong's aim to be the main Regional HQ location destination. The competitive advances made by Singapore as an alternative Regional HQ location over the past 10 years are at least partly due to more affordable occupancy costs.

[1] CBRE Prime Office Market Costs report
[2] CBRE Hong Kong Office Market data

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The concern of the business community with the proposed doubled stamp duty measures capturing office property, is that persons who wish to purchase premises to control their occupancy costs and, thus, secure their own commercial future in Hong Kong, will be strongly discouraged from doing so. Investment into long-term rental property is likewise discouraged thus limiting diversification of ownership and occupier choice. The potential consequences for Hong Kong's economy become evident.

The competitive advances made by Singapore as an alternative location for regional headquarters over the past 10 years are at least partly due to more affordable occupancy costs. Singapore has experienced similar concerns of an over-heated residential property market spilling over into industrial property. Although Singapore has also recently extended special stamp duty to industrial (non-residential) properties[3] in order to deal with an over-heated residential property market spilling over into industrial, Singapore included an exemption for non-residential properties held for more than 3 years thus protecting genuine investors and owner/occupiers and potentially giving Singapore a further competitive advantage. That is, Singapore recognises that an investor acquiring a non-residential property will not be viewed as speculator and will not be subject to the additional stamp duty where they hold the property for more than 3 years. Investors acquiring for the long-term are not being penalised in Singapore and I would argue that this should also be the same for investors in Hong Kong.

2. Position for Britcham

Rent is a major part of cost for all businesses in Hong Kong. Purchase of office space (whether a small office for a growing SME, floor for larger local or international business etc) can allow Hong Kong businesses, including small & medium enterprises (SMEs), to lower a major long-term operation cost element.

To continue to attract genuine long-term investors into the non-residential property market, a similar approach to SSD should be adopted for the proposed 'Double Stamp Duty' rates for non-residential property currently under Bills Committee scrutiny. **Non-residential (including office) property acquired by businesses for long-term investment purposes should not be subject to the additional 'Double Stamp Duty'. The double stamp duty should not be payable in the situation where a non-residential property was acquired for non-speculative purposes and was held for a period of more than, say, 3 years.**

This would meet the Government's aim of combatting short-term re-sale activities in respect of non-residential properties (as referred to in the Legco briefing paper) by strongly discouraging such speculative 'rapid resale' activity. Importantly,

[3] With effect from 13 January 2013

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however it would also ensure that Hong Kong continues to attract genuine long-term investors into the non-residential property market and would encourage owner occupation, supporting Hong Kong's position as the location of choice for regional business headquarters.

Yours sincerely,

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Executive Director

The British Chamber of Commerce in Hong Kong

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