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COMMERCE AND ECONOMIC  
DEVELOPMENT BUREAU

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6 June 2014

Ms Yue Tin-po  
Clerk to the Subcommittee to Study the Proposed  
Legislative Amendments Relating to the Establishment  
of a New Innovation and Technology Bureau  
Legislative Council Secretariat  
Legislative Council Complex  
1 Legislative Council Road, Central  
Hong Kong

Dear Ms Yue,

**Subcommittee to Study the Proposed Legislative Amendments Relating  
to the Establishment of a New Innovation and Technology Bureau**

I refer to the “List of follow-up actions arising from the discussion at the meeting of the captioned Subcommittee on 5 June” in respect of which the Government is requested to provide written response.

In order to establish the proposed new Innovation and Technology Bureau (ITB), we need to complete the following two major steps –

- (a) obtaining approval of the Finance Committee (FC) of the Legislative Council for the proposed changes in staffing and

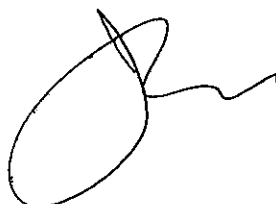
financial provisions in the 2014-15 Estimates of Expenditure (the FC process); and

- (b) passage of a resolution under section 54A of the Interpretation and General Clauses Ordinance (Cap. 1) for transfer of functions under the Electronic Transactions Ordinance (Cap. 553) from the former officers to the new officers in the ITB, i.e. the proposed Resolution being considered by the Subcommittee (the legislative amendment process).

As the FC and the legislative amendment processes are separate proceedings in parallel and the dates of their completion are uncertain, the commencement date of the proposed Resolution is therefore set on a day after both processes have been completed. We consider that setting the commencement date as the 14<sup>th</sup> day after the date on which we obtain FC's relevant approval, or the 14<sup>th</sup> day after the passage of the Resolution, whichever is the later, is appropriate. This has taken into account the time required for the preparation work relating to the establishment of the new Bureau, including the deployment of supporting staff and appointment of the Principal Official. We are confident that, with our best endeavours, we will complete in good time all preparation for the new Bureau to commence operation.

We have taken on board the suggestions of the subcommittee on the amendments to the proposed Resolution. Please find attached at **Annex A** the revised draft Resolution for the subcommittee's consideration. A mark-up version is at **Annex B** for easy reference.

Please let us know if you need any further information.



( Ivanhoe Chang )

for Secretary for Commerce and Economic Development

## Interpretation and General Clauses Ordinance

### Resolution

(Under section 54A of the Interpretation and General Clauses Ordinance  
(Cap. 1))

Resolved that—

(1) in this Resolution—

*commencement date* (生效日期)—

- (a) subject to subparagraph (b), means the 14th day after the day on which the Finance Committee of the Legislative Council (*the Committee*) approves, under section 8 of the Public Finance Ordinance (Cap. 2), the proposal to make changes to the Estimates of Expenditure 2014–15 to provide for the following matters arising from the establishment of the Innovation and Technology Bureau—
  - (i) the creation of a new head of expenditure and new subheads in that head of expenditure;
  - (ii) supplementary provision in those subheads;
  - (iii) variations in the establishment of posts; or
- (b) if this Resolution is made and passed by the Legislative Council under section 54A of the Interpretation and General Clauses Ordinance (Cap. 1) after the day on which the Committee approves the proposal mentioned in subparagraph (a), means the 14th day after the day on which this Resolution is made and passed;

- (2) with effect from the commencement date—
  - (a) the functions exercisable by the Secretary for Commerce and Economic Development under the Electronic Transactions Ordinance (Cap. 553) be transferred to the Secretary for Innovation and Technology, and to give full effect to the transfer, the definition of *Secretary* in section 2(1) of that Ordinance be amended by repealing “Secretary for Commerce and Economic Development” and substituting “Secretary for Innovation and Technology”;
  - (b) the functions exercisable by the Permanent Secretary for Commerce and Economic Development (Communications and Technology) under the Electronic Transactions Ordinance (Cap. 553) be transferred to the Permanent Secretary for Innovation and Technology, and to give full effect to the transfer, the definition of *Permanent Secretary* in section 2(1) of that Ordinance be amended by repealing “Permanent Secretary for Commerce and Economic Development (Communications and Technology)” and substituting “Permanent Secretary for Innovation and Technology”; and
- (3) in addition to and without derogating from section 23 of the Interpretation and General Clauses Ordinance (Cap. 1)—
  - (a) anything lawfully done before the commencement date by or in relation to a public officer from whom any function is transferred under this Resolution (*former officer*) pursuant to or in connection with that function is, on and from that date, to be regarded, in so far as necessary for the purpose or in consequence of that transfer, as done by or in relation to, as the case may be, the public officer to whom that function is transferred (*new officer*);

- (b) anything that, immediately before the commencement date, may be done and is in the process of being done by or in relation to a former officer pursuant to or in connection with any function transferred under this Resolution may, on and from that date, be continued by or in relation to, as the case may be, the new officer;
- (c) anything that, immediately before the commencement date, is required to be done and is in the process of being done by or in relation to a former officer pursuant to or in connection with any function transferred under this Resolution is, on and from that date, to be continued by or in relation to, as the case may be, the new officer;
- (d) without limiting subparagraphs (a), (b) and (c), and in so far as necessary for the purpose or in consequence of the transfer of functions under this Resolution—
- (i) any document, agreement or arrangement creating or giving rise to legal rights or obligations that—
- (A) refers to a former officer, or was prepared, made or entered into by a former officer on behalf of the Government; and
- (B) is in force immediately before, or is to come into force on or after, the commencement date,
- is, on and from that date, to be construed as if the references to the former officer included references to the new officer;
- (ii) in any legal proceedings—
- (A) in which a former officer is a party; and
- (B) that are subsisting immediately before the commencement date,

- the new officer is, on and from that date, to substitute for the former officer as that party;
- (iii) any right of appeal to a former officer that is subsisting immediately before the commencement date is, on and from that date, treated as being a right of appeal to the new officer;
- (iv) any form that is specified or prescribed before the commencement date for use in connection with any function of a former officer that is transferred under this Resolution may, on and from that date, be used despite the fact that it contains references to the former officer, and those references are to be construed as references to the new officer;
- (e) without limiting subparagraphs (a), (b) and (c), and in so far as necessary for the purpose or in consequence of the transfer of functions under this Resolution, any document, agreement or arrangement that—
- (i) contains any reference to a public officer or a policy bureau (*former officer or bureau*) specified in column 1 of the Schedule;
- (ii) was prepared, made or entered into by any public officer on behalf of the Government;
- (iii) does not create or give rise to any legal right or obligation; and
- (iv) is in force immediately before, or is to come into force on or after, the commencement date,
- is, on and from that date, to have effect as if the reference is substituted by a reference to the public officer or policy bureau specified opposite to the former officer or bureau in column 2 of the Schedule in so far as the substitution is necessary for or conducive to the

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attainment of the purposes of the document, agreement  
or arrangement.

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**Schedule**

[para. (3)(e)]

**Substitution of References to Public Officer and Policy  
Bureau**

Secretary for Commerce  
and Economic Development

Secretary for Innovation and Technology

Commerce and Economic  
Development Bureau

Innovation and Technology Bureau

## Interpretation and General Clauses Ordinance

### Resolution

(Under section 54A of the Interpretation and General Clauses Ordinance  
(Cap. 1))

Resolved that—

(1) in this Resolution—

*commencement date* (生效日期)—

- (a) subject to subparagraph (b), means the 14th day after the day on which the Finance Committee of the Legislative Council (*the Committee*) approves, under section 8 of the Public Finance Ordinance (Cap. 2), the proposal to make changes to the Estimates of Expenditure 2014–15 to provide for the following matters arising from the establishment of the Innovation and Technology Bureau—
  - (i) the creation of a new head of expenditure and new subheads in that head of expenditure;
  - (ii) supplementary provision in those subheads;
  - (iii) variations in the establishment of posts; or
- (b) if this Resolution is made and passed by the Legislative Council under section 54A of the Interpretation and General Clauses Ordinance (Cap. 1) after the day on which the Committee approves the proposal mentioned in subparagraph (a), means the 14th day after the day on which this Resolution is made and passed;

- (2) with effect from the commencement date—
  - (a) the functions exercisable by the Secretary for Commerce and Economic Development under the Electronic Transactions Ordinance (Cap. 553) be transferred to the Secretary for Innovation and Technology, and to give full effect to the transfer, the definition of *Secretary* in section 2(1) of that Ordinance be amended by repealing “Secretary for Commerce and Economic Development” and substituting “Secretary for Innovation and Technology”;
  - (b) the functions exercisable by the Permanent Secretary for Commerce and Economic Development (Communications and Technology) under the Electronic Transactions Ordinance (Cap. 553) be transferred to the Permanent Secretary for Innovation and Technology, and to give full effect to the transfer, the definition of *Permanent Secretary* in section 2(1) of that Ordinance be amended by repealing “Permanent Secretary for Commerce and Economic Development (Communications and Technology)” and substituting “Permanent Secretary for Innovation and Technology”; and
- (3) in addition to and without derogating from section 23 of the Interpretation and General Clauses Ordinance (Cap. 1)—
  - (a) anything lawfully done before the commencement date by or in relation to a public officer from whom any function is transferred under this Resolution (*former officer*) pursuant to or in connection with that function is, on and from that date, to be regarded, in so far as necessary for the purpose or in consequence of that transfer, as done by or in relation to, as the case may be, the public officer to whom that function is transferred (*new officer*);

- (b) anything that, immediately before the commencement date, may be done and is in the process of being done by or in relation to a former officer pursuant to or in connection with any function transferred under this Resolution may, on and from that date, be continued by or in relation to, as the case may be, the new officer;
- (c) anything that, immediately before the commencement date, is required to be done and is in the process of being done by or in relation to a former officer pursuant to or in connection with any function transferred under this Resolution is, on and from that date, to be continued by or in relation to, as the case may be, the new officer;
- (d) without limiting subparagraphs (a), (b) and (c), and in so far as necessary for the purpose or in consequence of the transfer of functions under this Resolution—
- (i) any document, agreement or arrangement creating or giving rise to legal rights or obligations that—
- (A) refers to a former officer, or was prepared, made or entered into by a former officer on behalf of the Government; and
- (B) is in force immediately before, or is to come into force on or after, the commencement date,
- is, on and from that date, to be construed, ~~in so far as necessary for the purpose or in consequence of the transfer of function under this Resolution from the former officer to the new officer,~~ as if the references to the former officer included references to the new officer;
- (ii) in any legal proceedings—
- (A) in which a former officer is a party; and

- (B) that are subsisting immediately before the commencement date,
- the new officer is, on and from that date, to substitute for the former officer as that party;
- ~~(iii) any—~~
- ~~(A) right of appeal against a decision of a former officer; or~~
- ~~(B) right to have the decision reviewed,~~
- ~~that is subsisting immediately before the commencement date may, on and from that date, be exercised as if the decision were a decision of the new officer;~~
- (iviii) any right of appeal to a former officer that is subsisting immediately before the commencement date is, on and from that date, treated as being a right of appeal to the new officer;
- ~~(v) any right to have anything reviewed by a former officer that is subsisting immediately before the commencement date is, on and from that date, treated as being a right to have that thing reviewed by the new officer;~~
- (viiiv) any form that is specified or prescribed before the commencement date for use in connection with any function of a former officer that is transferred under this Resolution may, on and from that date, be used despite the fact that it contains references to the former officer, and those references are to be construed as references to the new officer;
- (e) without limiting subparagraphs (a), (b) and (c), and in so far as necessary for the purpose or in consequence of the

transfer of functions under this Resolution, any document, agreement or arrangement that—

- (i) contains any reference to a public officer or a policy bureau (*former officer or bureau*) specified in column 1 of the Schedule;
- (ii) was prepared, made or entered into by any public officer on behalf of the Government;
- (iii) does not create or give rise to any legal right or obligation; and
- (iv) is in force immediately before, or is to come into force on or after, the commencement date,

is, on and from that date, to have effect as if the reference is substituted by a reference to the public officer or policy bureau specified opposite to the former officer or bureau in column 2 of the Schedule in so far as the substitution is necessary for or conducive to the attainment of the purposes of the document, agreement or arrangement.

## Schedule

[para. (3)(e)]

### Substitution of References to Public Officer and Policy Bureau

Secretary for Commerce  
and Economic Development

Secretary for Innovation and Technology

Commerce and Economic  
Development Bureau

Innovation and Technology Bureau