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21 September 2017

Clerk to the Legislative Council
(Attn: Ms. Doris LO)
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

Dear Ms. Lo,

Panel on Transport
Panel on Security
Panel on Administration of Justice and Legal Services

Letter from Dr Hon Fernando CHEUNG Chiu-hung
on Customs, Immigration and Quarantine Arrangements
of the Hong Kong Section
of the Guangzhou-Shenzhen-Hong Kong Express Rail Link

I refer to your letter dated 9 August 2017, enclosing the letter from Dr Hon Fernando CHEUNG Chiu-hung dated 8 August 2017 which requested for a written response regarding the co-location arrangement of the Guangzhou-Shenzhen-Hong Kong Express Rail Link (“XRL”). Our reply is as follows.

The Government of the Hong Kong Special Administrative Region (“HKSAR”) has repeatedly stated in public that it is the common goal of the HKSAR and the Mainland to implement co-location arrangement at the West Kowloon Station (“WKS”) upon the commissioning of the Hong Kong Section of the XRL, with a view to maximising the transport, social and economic benefits of the XRL. Over the past few years, the HKSAR Government and the relevant central authorities have explored various ideas of the clearance procedures for the XRL, the situation of which has been set out in the discussion paper submitted by the HKSAR Government to the Legislative Council (“LegCo”) on 25 July 2017. Both sides agreed that the proposal for implementing the co-location arrangement at the WKS must be in compliance with the Basic Law, being operationally feasible and will not lead to problems from the public security angle of the HKSAR.

Regarding the extracts of the former Secretary for Transport and Housing’s speech mentioned in the incoming letter, as stated in the response from the HKSAR Government to the LegCo House Committee dated 2 August 2017, the co-location arrangement involves complicated constitutional, legal and operational issues. The HKSAR Government and the relevant Mainland authorities have thus conducted thorough studies and discussions in great depth. During the process, the HKSAR Government once explored the idea of allowing Mainland officials to enforce only those laws relevant to clearance procedures in the “Mainland Port Area” (“MPA”) in the WKS. However, studies revealed that such idea is infeasible and cannot be adopted for the implementation of the co-location arrangement in the WKS.

First of all, as stated in the aforementioned discussion paper submitted by the HKSAR Government to the LegCo, it is impossible to define in practice what Mainland laws are essential for enforcing the Mainland clearance procedures. Reasons include that clearance procedures concern various matters, and numerous Mainland laws and

regulations might be involved.

Secondly, under this idea, Hong Kong laws will not be excluded from the MPA and will therefore still be applicable. As a result, there will be problems of laws and jurisdiction overlapping, giving rise to legal disputes and proceedings, in particular legal challenges against immigration and repatriation matters. The security risks in Hong Kong will be increased. Based on the above reasons, the HKSAR Government does not consider that allowing Mainland officials to enforce only those laws relevant to clearance procedures in the MPA in the WKS is an appropriate proposal, and has never reached any form of consensus on the implementation of this idea with the Mainland side.

After reaching a consensus on the framework of the Co-operation Arrangement on implementing the co-location arrangement with the relevant Mainland authorities, the HKSAR Government immediately reported to the Executive Council on 25 July 2017 and obtained the endorsement of the Chief Executive in Council in taking forward the proposed “Three-step Process” before making an announcement in the same afternoon, so as to give an account to the community and initiate public discussion as early as possible.

Although the LegCo is in recess on the announcement day of the proposal for the co-location arrangement, the Chief Secretary for Administration took the initiative to send a letter to the Chairman of the LegCo House Committee on the same day, stating that the Secretary for Justice, the Secretary for Transport and Housing and the Secretary for Security would stand ready to attend a special House Committee meeting to explain the proposal and answer Members’ queries. This fully demonstrates that the HKSAR Government attaches great importance to the LegCo. Upon arrangement of the LegCo Secretariat, a special House Committee meeting was held on 3 August 2017. In addition, a joint meeting among the Panel on Security, the Panel on Transport and

the Panel on Administration of Justice and Legal Services was held on 8 August 2017. The Secretary for Justice, the Secretary for Transport and Housing and the Secretary for Security attended the relevant meetings to answer Members' queries. The Secretaries also attended various public events over the past period of time, including interviews at radio and television stations, to explain issues relating to the co-location arrangement and listen to the views of the community.

We have been paying attention to the different comments and concerns of the LegCo and society during the course of negotiation with the Mainland side. In the days ahead, the HKSAR Government will prudently consider the views offered by the LegCo and different facets of society in forging ahead the implementation work of the co-location arrangement.

Yours sincerely,

A handwritten signature in cursive script, appearing to read 'Ronald C.', with a small dot at the end.

(Ronald CHENG)

for Secretary for Transport and Housing

c.c. Secretary for Justice
Secretary for Security