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7 March 2018

Secretary General
Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong
(Attn: Ms Sophie LAU)

Dear Ms Lau,

**Bills Committee on Guangzhou-Shenzhen-Hong Kong
Express Rail Link (Co-location) Bill**

**Letter from Dr Hon Fernando CHEUNG Chiu-hung
regarding the relationship between Article 19(2) of the Basic Law
and the co-location arrangement**

We refer to your letter dated 1 March 2018, enclosing the letter from Dr Hon Fernando CHEUNG Chiu-hung dated 26 February 2018 which asked for the Government's written response regarding the relationship between Article 19(2) of the Basic Law (hereinafter denoted in the format of "BL 19(2)") and the co-location arrangement under the Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Bill. Our reply is as follows.

It should be noted that the issues raised in Dr Hon Fernando CHEUNG Chiu-hung's letter are not based on any actual situations. Hence, we can only provide a general reply. The applicability of our reply to actual situations would depend on the factual circumstances of the case in question.

BL 19 is stipulated in Chapter II of the Basic Law. The main purpose of BL 19 is to make provision for the judicial powers and jurisdiction for the Hong Kong Special Administrative Region ("HKSAR") in the light of the relationship of the Central Authorities and the HKSAR. The structure, powers and functions of the Judiciary are the subject matter of Section 4 in Chapter IV of the Basic Law, not BL 19.

BL 19(2) provides that "the courts of the Hong Kong Special Administrative Region shall have jurisdiction over all cases in the Region, except that the restrictions on their jurisdiction imposed by the legal system and principles previously in force in Hong Kong shall be maintained." The legal system and principles previously in force in Hong Kong include the restrictions imposed on the court's jurisdiction by legislation.

Prior to 1 July 1997, the jurisdiction of the courts of Hong Kong could be restricted by legislation. For instance, prior to the establishment of the HKSAR, in accordance with the International Organizations and Diplomatic Privileges Ordinance (Cap. 190), diplomatic immunities and the immunities for international organizations restricted the jurisdiction of the courts. The above immunities continue to be recognized under Hong Kong law after 1 July 1997.

Yours sincerely,



(Ronald CHENG)

for Secretary for Transport and Housing

c.c. Secretary for Justice
Secretary for Security