

政府總部
運輸及房屋局
運輸科



香港添馬添美道 2 號
政府總部東翼

**Transport and
Housing Bureau**
Government Secretariat
Transport Branch

East Wing, Central Government Offices,
2 Tim Mei Avenue,
Tamar, Hong Kong

電話 Tel: 3509 8177

傳真 Fax: 2136 8016

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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 Hon LAM Cheuk-ting dated 4 May 2018

We refer to your letter dated 4 May 2018, enclosing a letter from Hon LAM Cheuk-ting of the same date in respect of the application of international treaties in the Mainland Port Area (“MPA”) at the West Kowloon Station. Our reply is as follows.

Applicability of international treaties in the MPA

(Part (1) of Hon LAM Cheuk-ting's written enquiry)

The specific question of whether international treaties entered into by the Hong Kong Special Administrative Region ("HKSAR") as a contracting party would continue to apply in the MPA at the West Kowloon Station needs to be analysed in consideration of the facts of the individual case and other relevant factors, including the intent, purpose and objective of the treaty concerned, the persons to whom it applies, the content of its provisions, as well as the functions of the MPA and the activities carried out there.

Discharge of obligations under international treaties in the MPA

(Parts (2) to (4) of Hon LAM Cheuk-ting's written enquiry)

The HKSAR enters into international agreements pursuant to Article 151 of the Basic Law or the specific authorisation given by the Central People's Government ("CPG"). As the sovereign state of the HKSAR, the People's Republic of China would ensure that the HKSAR Government discharges its international duties and obligations.

In relation to the MPA, the HKSAR Government has communicated with the CPG on the applicability of international treaties thereat. Both sides consider that the MPA, as a clearance port, is mainly used for the purposes of immigration, customs and quarantine, and the area involved is minimal. Substantial difficulties in applying international treaties due to the implementation of co-location arrangement in the MPA would be rather unlikely. Where necessary, the HKSAR Government and the CPG would engage in consultations on the implementation of international treaties in the MPA and handle the matter as appropriate.

Disputes involving the discharge of obligations under international agreements in the MPA

(Part (5) of Hon LAM Cheuk-ting's written enquiry)

As mentioned above, the HKSAR Government and the CPG consider that substantial difficulties in applying international treaties due to the implementation of co-location arrangement in the MPA would be rather unlikely. Generally speaking, international law disputes involving the discharge of obligations between the HKSAR and the other contracting party would not be referred to the HKSAR courts for determination. On the other hand, if the relevant international treaty is implemented in the HKSAR by way of local legislation, the party concerned may seek an adjudication from the court in respect of his lawful rights and interests in accordance with legal procedures.

Yours sincerely,



(Ronald CHENG)

for Secretary for Transport and Housing

c.c. Secretary for Justice
Secretary for Security