

香港特別行政區政府
保安局



The Government of the
Hong Kong Special Administrative Region
Security Bureau

香港添馬添美道 2 號

2 Tim Mei Avenue, Tamar, Hong Kong

本函檔號 Our Ref.: SBCR 10/3221/15
來函檔號 Your Ref.: CB2/BC/3/20

English translation

Clerk to Bills Committee on Immigration (Amendment) Bill 2020
Bills Committee of Legislative Council
Legislative Council Complex
1 Legislative Council Road, Central
Hong Kong
(Attn: Miss Betty MA)

23 April 2021

Dear Miss MA,

Bills Committee on Immigration (Amendment) Bill 2020

Follow-up matters

In regard to the letter from the Law Society of Hong Kong to the Bills Committee on Immigration (Amendment) Bill 2020 ("the Committee") dated 20 April 2021, the Security Bureau's reply is set out as below.

2. The provision in the Immigration (Amendment) Bill 2020 ("the Bill") to empower the Secretary for Security to make regulations in relation to the provision of passenger information by carriers is intended for fulfilling the international obligation of the Hong Kong Special Administrative Region under the "Convention on International Civil Aviation" with a view to implementing the Advance Passenger Information ("API") system.

3. The Government has time and again explained clearly to the Legislative Council ("LegCo") members and the public on the papers submitted to and in the meetings held with the Committee that such system is intended to require the provision of passenger information on flights heading to Hong Kong, rather than departing flights. The right of Hong Kong residents to enter or leave Hong Kong is not affected.

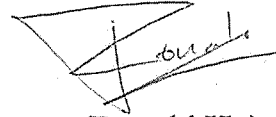
4. According to the requirements of the "Convention on International Civil Aviation", all members should put in place the API system with legal backing. Based on the relevant requirements, airlines need to provide passenger and crew member information to the Immigration Department before flight departure to Hong Kong. It will only apply to flights heading to Hong Kong. So far, over 90 countries already have the API system in place, including the Member States of the European Union, the United States of America, Canada and Australia.

5. According to the general practice, the enabling provisions to be stipulated in the main ordinance are usually crafted in more generic terms, while the subsidiary legislation to be made thereunder will set out the operational details with provisions in more specific terms. The making of relevant regulations will also require the scrutiny and passage by LegCo again. The Government will fully reflect so and set out relevant operational details in the regulations to be formulated at a later stage. In addition, before the implementation of the system, we will consult the aviation sector and different stakeholders, and it is also necessary to seek funding approval from the Finance Committee of LegCo.

6. The freedom to travel and the right to enter or leave Hong Kong of Hong Kong residents are guaranteed under Article 31 of the Basic Law. Prior to introducing the Bill into LegCo, the Government has assured that the Bill conforms to the Basic Law, including the provisions on human rights. Accordingly, we do not consider it necessary to spell out in the main ordinance that the proposed authority will not affect the rights of Hong Kong residents and persons with the right to enter and stay in Hong Kong.

7. For further enquiries, please contact the undersigned at 2810 2099.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Ronald Ho', is written over a rectangular box that has been partially filled with diagonal lines.

(Ronald Ho)
for Secretary for Security

c.c. Immigration Department
Department of Justice