

立法會
Legislative Council

LC Paper No. CB(1) 1932/00-01

(These minutes have been
seen by the Administration)

Ref: CB1/BC/5/00/2

**Bills Committee on
Hong Kong Science & Technology Parks Corporation Bill**

**Meeting on
Thursday, 8 February 2001, at 11:15 am
in the Chamber of the Legislative Council Building**

- Members present** : Hon Kenneth TING Woo-shou, JP (Chairman)
Hon James TIEN Pei-chun, JP
Ir Dr Hon Raymond HO Chung-tai, JP
Prof Hon NG Ching-fai
Hon HUI Cheung-ching
Hon CHAN Yuen-han
Hon CHAN Kam-lam
Hon SIN Chung-kai
- Members absent** : Hon Eric LI Ka-cheung, JP
Dr Hon LUI Ming-wah, JP
Hon YEUNG Yiu-chung
Hon CHOY So-yuk
Hon LAU Ping-cheung
- Public officers
Attending** : Mr Francis HO
Commissioner for Innovation and Technology
- Miss Agnes WONG
Assistant Commissioner for Innovation and Technology
(Infrastructure)
- Mr Sunny CHAN
Senior Government Counsel
Department of Justice

Clerk in attendance : Mr Andy LAU
Chief Assistant Secretary (1)2

Staff in attendance : Ms Bernice WONG
Assistant Legal Adviser 1

Mrs Queenie YU
Senior Assistant Secretary (1)6

I Meeting with the Administration

The Administration had provided a written response to members' concerns raised at the last meeting on 2 February 2001 vide LC Paper No. CB(1)549/00-01(01).

Prudent commercial principles

2. Mr James TIEN was concerned about the pricing policy of the new Corporation, which was essentially a public body. He was worried that the new Corporation might not be able to fulfil its public mission to assist the industry in Hong Kong if it was required to operate in accordance with prudent commercial principles. Rather, it might compete with the private sector for profit in the end. He therefore asked if suitable amendments could be introduced to confine the operating principle of the new Corporation to merely achieving full-cost recovery for its services.

3. The Commissioner for Innovation and Technology (CIT) advised that the new Corporation would need to be operated in accordance with prudent commercial principles. Indeed, the intention of clause 8(2)(i) was to provide the new Corporation with flexibility in determining the level of fees, taking into account the nature of the services to be provided, the needs of different users and the overall financial management of the new Corporation. Given that the new Corporation would offer a wide range of services to different users including both local start-ups and reputable multi-national corporations, it should be provided with the power to exercise flexibility in determining the appropriate level of fees for its services, taking into consideration the various requirements of different users. For example, subsidized office rental, operating allowance and value-added business development services would be offered to eligible companies under the Business Incubation Programme to assist Hong Kong start-ups or existing small high-tech firms to get off the ground. However, for other tenants such as multi-national corporations, their prime consideration would not always be on costs but the availability of a conducive environment to facilitate their continued growth and development in the region. Hence, the Corporation would need to formulate different strategies and pricing policy for different groups of users. In some cases, full market rate might be charged on ordinary companies to fund other services

provided by the new Corporation with a view to assisting local industry. CIT also confirmed that this practice had been adopted for years and it would be appropriate for the new Corporation to continue to adopt it.

Clauses 2 and 4 - Definition of "Functions"

4. Mr SIN Chung-kai enquired about the definition of "functions" in clause 4(2). He was concerned that whether the term should be further qualified to include a power and a duty to fulfill the Corporation's purposes. The Senior Government Counsel advised that "function" was defined under clause 2 to include a power and a duty. The Corporation's functions, powers and duties were already set out in the specific context of the various relevant clauses in the Bill. As such, it was preferable for any functions, powers and duties to be interpreted in the specific context where they appeared in the Bill and be performed by the relevant parties accordingly. Notwithstanding the above, he undertook to examine further whether the qualification as suggested by Mr SIN was necessary. He would provide a written reply after the meeting.

(Post meeting note : The requested information was circulated vide LC Paper No. CB(1) 615/00-01(02)).

Clause 6 - Purposes of Corporation

5. Mr HUI Cheung-ching remarked that should there be any major changes to the purposes of the Corporations, the relevant Panel should be briefed in advance. CIT took note of the member's comment and replied that regular briefings could be arranged, if necessary.

6. Members noted that a Committee Stage amendment (CSA) would be moved by the Administration to clause 6(1)(b) to replace "工業" with "製造及服務業". The meaning of "工業" was manufacturing industry biased, whereas the English word "industry" had a more generic meaning to cover both manufacturing and service industries. The proposed amendment was to ensure that the Chinese provision reflected the legislative intent without ambiguity.

Clause 8(2)(n) and (o)

7. Clause 8(2)(n) provided that the Corporation might "with the prior approval of the Secretary, establish one or more funds which shall be used for the purposes of the Corporation" whereas Clause 8(2)(o) provided that the Corporation might "approve the annual budget of the Corporation, which shall include the annual estimate of income and expenditure and a business plan of the Corporation." Mr SIN Chung-kai was concerned that the effect of the provisions was that Legislative Council would be deprived of the right to scrutinize the related proposals.

8. CIT clarified that Government initial equity injection into the existing three Corporations had been approved by the Finance Committee of the Legislative Council. On the other hand, the Bill had provided that the new Corporation was required to send to the Financial Secretary estimates of its income and expenditure for the subsequent financial year for approval. The business plan of the new Corporation also enabled the Government to monitor and assess its performance. The Financial Secretary should cause a copy of each of the documents specified in clause 23(6) to be laid on the table of the Legislative Council. Through this mechanism, Legislative Council could monitor the financial situation of the new Corporation.

9. Referring to the funds established under clause 8(2)(n), CIT clarified that they would be established by the new Corporation with its own financial resources for fulfilling its mission to assist the industry. In view of its nature, it was totally different from those funds set up under the Public Finance Ordinance which required the approval of the Legislative Council.

Clause 10 - Disclosure of interest

10. Members noted that a CSA would be moved to amend the Chinese version of Clause 10(1) to improve the clarity of the provision as follows :

"董事或委員會成員獲委任後，須在切實可行範圍內盡快以及在情況有需要時，以董事局當其時藉會議常規或其他方式決定的方式，向董事局申報其屬於董事局如此決定的類別或種類的利害關係。"

11. Mr SIN Chung-kai was concerned about the scope of disclosure as presently drafted. He also queried why public access to information on disclosure of interest was not provided for in the legislation.

12. CIT said that clause 10(1) as now drafted would need to be of a general nature, given that it was not possible to determine during the process of legislative drafting all the classes of interest that would need to be declared. The present arrangement in the Bill, which empowered the Board to make such determinations, would be both practical and flexible to cater for different situations and circumstances. Notwithstanding the above, he undertook to examine further on the above issues with reference to similar provisions for other statutory bodies, including public access to information on disclosure of interest.

(Post meeting note : The requested information was circulated vide LC Paper No. CB(1) 615/00-01(02)).

Clause 12 - Directions to Corporation

13. Members noted that clause 12 provided that "The Chief Executive may, if he considers it to be in the public interest so to do, give the Corporation such general directions in writing as regards the performance of its functions as he

considers appropriate". Unlike an order made under clause 6(1)(d), a direction given by the Chief Executive under clause 12 was not subsidiary legislation. Mr SIN Chung-kai and Miss CHAN Yuen-han therefore enquired about the reasons for the variation.

14. CIT advised that the powers to be exercised by the Chief Executive under clause 12(1) were of an administrative nature in relation to the performance of the functions of the Corporation. This differed from clause 6(1)(d), which enabled the Corporation to engage in activities outside those already prescribed in clause 6(1)(a), (b) and (c). Given that the potential effect of clause 6(1)(d) was of a more fundamental nature with a bearing on the prescribed purposes of the new Corporation as stipulated in the legislation, an order made under clause 6(1)(d) should be in the form of subsidiary legislation and subject to scrutiny by the Legislative Council. At the request of members, he undertook to provide further information to account for the difference of the two provisions after the meeting.

(Post meeting note : The requested information was circulated vide LC Paper No. CB(1) 615/00-01(02)).

Clause 14 - Chief Executive Officer

15. Miss CHAN Yuen-han was concerned about the delineation of the role and functions of the Chief Executive Officer and the Board Chairman as well as the overall management structure of the Corporation. CIT responded that the role of the Chairman was clear by reference to the role of the Board of Directors as provided for under clause 4(2) of the Bill. The role of the Chief Executive Officer was clear in the general sense of the term. Notwithstanding the above, he undertook to examine the concern of Miss CHAN and provide further information after the meeting.

(Post meeting note : The requested information was circulated vide LC Paper No. CB(1) 615/00-01(02)).

Clause 27 - Premises set out in Schedule 1

16. Members noted that "Schedule 1 sets out, for the purposes of this Ordinance, the premises in Hong Kong where activities related to the purposes of the Corporation as prescribed in section 6(1)(b), (c) or (d) are, or are to be, carried out". As presently drafted, Schedule 1 would also cover rented premises. The Corporation might by notice published in the Gazette amend Schedule 1 and the notice would be subject to negative vetting by the Legislative Council. This would help enhance the transparency and accountability of the new Corporation in the course of its operation. Assistant Legal Adviser 1 confirmed in response to Mr SIN Chung-kai that the corporation was not required to consult the Executive Council in making a notice under clause 27(2).

Schedule 2 - Membership of Board

17. Members noted that the new Corporation would be governed by the Board of Directors which consisted of :

- (a) the Chairman, to be appointed by the Chief Executive; and
- (b) 8 to 16 members (such number to be determined by the Financial Secretary) to be appointed by the Financial Secretary.

18. Miss CHAN Yuen-han enquired whether it was necessary to set out in the Bill the composition of the future Board so as to ensure that there were sufficient members from the relevant sectors and a balanced composition was maintained. CIT responded that it should leave the present provisions intact without stipulation of the professional and institutional sources of membership of the Board and their respective numbers so as to provide for flexibility to deal with any changing needs of the Corporation in pursuing its public mission in the rapidly changing technology development/business environment.

19. Miss CHAN Yuen-han remained of the view that there was a need to set out clearly the composition of the Board. She requested the Administration to consider her views further.

20. Members agreed to hold another meeting on 20 February 2001 to continue deliberations on the Bill.

II Any other business

21. There being no other business, the meeting ended at 12:45 pm.