

Ref. : ITC CR 2/17/1610/00

15 February 2001

The Hon. Kenneth Ting Woo-shou, JP
Chairman
Bills Committee on Hong Kong Science and
Technology Parks Corporation Bill
Legislative Council
8 Jackson Road
Central
Hong Kong

Dear Chairman,

Hong Kong Science and Technology Parks Corporation Bill

I would like to give the Administration's responses to the issues raised by Members at the last Bills Committee meeting held on 8 February. These issues are summarized in the Clerk to the Bills Committee's letter of 9 February.

Clauses 2 and 4: Definition of "Functions"

At present "function" is defined to include a power and a duty. The Hon. Sin Chung-kai's concern is whether this should be further qualified to include a power and a duty "to fulfill the Corporation's purposes". After careful consideration, our conclusion is that the qualification is not necessary. The Corporation's functions, powers and duties are already clearly set out in the specific context of the various relevant clauses in the Bill. Clause 8, which provides for the powers of the Corporation, is a case in point. In particular, clause 8(1) makes it clear that the Corporation's powers are to enable it to do things which are, inter alia, conducive to the attainment of the purposes of the Corporation. It is preferable for any functions, powers and duties to be interpreted in the specific context where they appear in the Bill and be performed by the relevant parties accordingly.

From a drafting point of view, the suggested qualification would also have the effect of narrowing the existing definition of "function" and could therefore have unintended consequences.

Clause 10(1): Disclosure of Interest

There are two issues here: the scope of disclosure and public access to information on disclosure of interest.

Our view is that clause 10(1) as now drafted would need to be of a general nature, given that it is 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 empowers the Board to make such determinations, would be both practical and flexible to cater for different situations and circumstances. It is also in line with other similar provisions as in the case of the Mandatory Provident Fund Schemes Ordinance (Chapter 485) and the Urban Renewal Authority Ordinance (Chapter 563).

On the other hand the Bill is silent on aspects of public access to information on disclosure of interest. We agree that the Bill should provide for this, along the lines of section 7(3) of Schedule 1A of the Mandatory Provident Fund Schemes Ordinance and section 7(3) and (4) of the Urban Renewal Authority Ordinance. We have issued drafting instructions for appropriate Committee Stage Amendments and will let you have the necessary drafts before the next Bills Committee meeting on 20 February.

Clause 12(1): Directions to the Corporation

The powers to be exercised by the Chief Executive under clause 12(1) are clearly of an administrative nature in relation to the performance of the functions of the Corporation. This differs from clause 6(1)(d), which enables the Corporation to engage in activities outside those already prescribed in clause 6(1)(a), (b) and (c). Thus the potential effect of clause 6(1)(d) is of a more fundamental nature with a bearing on the basic purposes of the Corporation. The designation of an order to be given by the Chief Executive in Council in these circumstances is therefore appropriate in order that the Legislative Council can have oversight on any major departure from the original purposes of the Corporation.

Clause 14: Chief Executive Officer

The role of the Chairman is 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 is clear in the general sense of the term but I agree that there may be a need to provide for a general description of the duties of the Chief Executive Officer so that the relationship between the Board, the Chairman of the Board and the Chief Executive Officer can be made clearer and more explicit. We are consulting the Law Draftsman and, where appropriate, will let the Bills Committee have the necessary amendments before the meeting on 20 February.

Schedule 2

We have looked into similar provisions in other Ordinances and found that the respective arrangements vary. There is no consistency of practice. Our view remains that we 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.

Yours sincerely,

(Francis Ho)
Commissioner for Innovation and Technology

c.c. Mr. Andy Lau
Clerk to Bills Committee