

立法會
Legislative Council

LC Paper No. CB(1)461/00-01
(These minutes have been
seen by the Administration)

Ref: CB1/PL/ES/1

Legislative Council
Panel on Economic Services

Minutes of meeting held on
Tuesday, 19 December 2000, at 2:30 pm
in the Chamber of the Legislative Council Building

Members present : Hon James TIEN Pei-chun, JP (Chairman)
Hon Kenneth TING Woo-shou, JP
Hon Eric LI Ka-cheung, JP
Dr Hon David LI Kwok-po, JP
Hon Fred LI Wah-ming, JP
Hon Mrs Selina CHOW LIANG Shuk-ye, JP
Hon CHEUNG Man-kwong
Hon HUI Cheung-ching
Hon CHAN Kam-lam
Hon SIN Chung-kai
Dr Hon Philip WONG Yu-hong
Hon Howard YOUNG, JP
Hon Mrs Miriam LAU Kin-ye, JP
Hon CHOY So-yuk
Hon Abraham SHEK Lai-him, JP
Hon Henry WU King-cheong, BBS

Non-Panel member attending : Dr Hon YEUNG Sum

Members absent : Dr Hon LUI Ming-wah, JP (Deputy Chairman)
Hon LAU Chin-shek, JP

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Public officers attending : Agenda Item IV

Economic Services Bureau

Ms Maria KWAN, JP
Acting Secretary for Economic Services

Mrs Rebecca LAI
Commissioner for Tourism

Mr WU Kam-yin
Assistant Commissioner for Tourism

Mr Sammy LI
Acting Registrar of Travel Agents

Agenda Item V

Economic Services Bureau

Ms Maria KWAN, JP
Acting Secretary for Economic Services

Mr Alex FONG
Deputy Secretary for Economic Services

Mr Roger TUPPER
Principal Assistant Secretary for Economic Services

Marine Department

Mr HUI Kit
Acting Assistant Director of Marine (Multi-lateral Policy)

Mr S K ANAND
Chief, Marine Incident Investigation

Agenda Item VI

Economic Services Bureau

Ms Maria KWAN, JP
Acting Secretary for Economic Services

Mr James WONG
Principal Assistant Secretary for Economic Services

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Mr Alex WONG
Principal Assistant Secretary for Economic Services

Electrical and Mechanical Services

Mr L T LEE
Assistant Director of Electrical and Mechanical Services

Attendance by Invitation : Agenda Item VI

The Hong Kong Electric Co. Ltd.

Mr K S TSO
Managing Director

Mr Francis L Y LEE
Director & General Manager (Engineering)

Mr Andrew J HUNTER
Group Finance Director

Mrs Minnie LI
General Manager
(Human Resources & Public Affairs)

Mr Gary CHANG
General Manager (Development & Planning)

Mr Steve NG
Deputy Chief Accountant

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

Staff in attendance : Ms Anita SIT
Senior Assistant Secretary (1)8

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- I Confirmation of minutes and matters arising**
(LC Paper No. CB(1)321/00-01 - minutes of meeting held on 4 November 2000
LC Paper No. CB(1)322/00-01 - minutes of meeting held on 27 November 2000)

The minutes of the meetings on 4 and 27 November 2000 were confirmed.

- II Information papers issued since last meeting**
(LC Paper No. CB(1)262/00-01 - Tables and graphs showing the import and retail prices of major oil products from November 1998 to October 2000)

2. Members noted the above information paper issued since the last meeting.

- III Items for discussion at the next meeting scheduled for 16 January 2001**
(LC Paper No. CB(1)320/00-01(01) - List of outstanding items for discussion
LC Paper No. CB(1)320/00-01(02) - List of follow-up actions)

3. Members agreed to discuss the following items at the next meeting scheduled for 16 January 2001 -

- a) Replacement of route surveillance radar and enhancement of the air traffic control systems;
- b) Overseas electricity market restructuring experience;
- c) Directorate staff for electricity market review; and
- d) Promotion of international maritime safety - amendment of subsidiary legislation.

4. Mrs Miriam LAU recalled that at a previous meeting, members had raised concern about the need for oil companies to introduce Octane 95 unleaded petrol to provide consumers with a wider choice of petrol products. She suggested that the Panel should follow up this issue in conjunction with the issue of setting up a regulatory mechanism to prevent oil companies from reaping profits through the concessionary duty for ultra low sulphur diesel. Members agreed.

5. Miss CHOY So-yuk suggested that the Panel should follow up the construction of a convention and exhibition centre at the airport island. The Chairman instructed the Clerk to check the nature and status of the issue and include the issue in the list of outstanding items for discussion if appropriate.

(Post-meeting note: At the meeting of the Panel on Commerce and Industry (CI Panel) on 8 January 2001, the Secretary for Commerce and Industry

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undertook to provide a paper on the provision of additional convention and exhibition facilities in Hong Kong, including the proposed facilities near the new airport at Chek Lap Kok. The item would be discussed by the CI Panel at its meeting to be held on 12 February 2001.)

IV Travel Agents (Amendment) Bill 2001

(LC Paper No. CB(1)320/00-01(03) - Information paper provided by the Administration)

6. The Commissioner for Tourism (CT) briefed members on the proposals covered by the Travel Agents (Amendment) Bill 2001 (the Bill).

7. Miss CHOY So-yuk declared interest that she was the chairman of the Complaints Committee of the Travel Industry Council of Hong Kong (TIC).

8. Mr Howard YOUNG said that the tourism industry in general supported the introduction of legislation to regulate inbound travel agents in view of increasing complaints from tourists against mal-practices of inbound travel agents. Referring to the proposed definition of inbound travel agents set out in paragraph 12 of the discussion paper, Mr YOUNG expressed concern that the proposed definition might not be able to catch all inbound travel agents as some of them might not be involved in arranging carriage and accommodation for tourists but merely sight-seeing and shopping etc. Given that complaints by tourists against inbound travel agents also touched on the latter, he saw it necessary for the proposed legislation to deal with the situation as well.

9. In response, CT confirmed that the Administration's intention was to bring various types of inbound travel agents including those referred to by Mr YOUNG into the proposed regulatory regime. She assured members that the drafting of the proposed legislation would be reviewed to ensure that it would adequately reflect this intention.

10. Noting from the Administration's paper that one of the objectives of the proposed legislation was to tackle the problems of unsatisfactory service and unprofessional practices of some inbound travel agents such as their taking visitors to shops which charged exorbitant prices or sold poor quality products, Mr CHEUNG Man-kwong questioned whether it was appropriate to legislate against these problems as tourists were free to buy or not to buy any products in Hong Kong and variation in price and quality from place to place was a normal phenomenon in a free economy as Hong Kong. Mr CHEUNG also remarked that the proposed legislation must be very clear and precise in respect of the mal-practices it sought to regulate, lest the industry would find it difficult to ensure compliance with the legislation.

11. CT responded that under the proposed legislation, licensing requirements would be imposed to ensure that only fit and proper persons could obtain a licence to

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carry on a business as an inbound travel agent. In determining whether a person was fit and proper, regard would be given to whether the person had been convicted in Hong Kong or elsewhere of any offence relating to fraudulent, corrupt or dishonest acts.

12. Pointing out that many complaints from tourists involved tour co-ordinators rather than travel agents per se, Mr Henry WU enquired whether the proposed regulatory regime would apply to these individuals. The Chairman shared Mr Henry WU's concern and highlighted the importance of enhancing tour co-ordinators' professionalism. He suggested that a code of conduct should be drawn up for compliance by inbound tour co-ordinators. Mr SIN Chung-kai considered that tour co-ordinators should also be subject to licensing control in the long term. He also pointed out that the proposed legislation should set out clearly the respective liabilities and responsibilities of travel agents and tour co-ordinators.

13. In response, CT explained that the Bill mainly sought to introduce a licensing system to regulate inbound travel agents. As in the case of regulating outbound travel agents, the Bill would provide a framework for the regulation of the front line practitioners through the self-regulatory organization. CT added that pending the establishment of a regulatory system for frontline service providers, tourists were afforded general consumer protection under relevant existing legislation.

14. Mrs Selina CHOW shared the view that inbound tour co-ordinators played a very important role in improving the quality of service of the industry and enquired about the target time frame for establishing a certification scheme for tour co-ordinators. CT replied that the Administration considered that two to three years would be a reasonable time frame, taking into account the time required for all serving/potential tour co-ordinators to obtain the necessary qualification before the relevant regulatory system took effect. Mrs Selina CHOW urged the Administration to draw up a detailed plan for the regulatory system within two years' time, though a longer period might be allowed for its implementation. CT assured members that the Administration would work against this schedule.

15. Miss CHOY So-yuk expressed support for the legislative proposals covered by the Bill. Noting that under the proposals, inbound travel agents would not be required to contribute to the Travel Industry Compensation Fund, she enquired about the funding arrangements for TIC to take care of visitors found unattended. CT replied that a Quality Assurance Fund had been set up under the aegis of TIC and each member of TIC was required to contribute \$2,000 to the fund. TIC might make use of this fund to provide necessary assistance to tourists in Hong Kong.

16. In reply to the Chairman's enquiry on whether similar assistance to tourists was available in overseas countries, CT advised that many overseas countries had a well established regulatory regime for inbound tourism, and indeed in most overseas countries, regulation on inbound travel agents was introduced prior to regulation on outbound travel agents.

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17. Miss CHOY So-yuk enquired about the mechanism for collecting evidence for investigation into suspected mal-practices of inbound travel agents. CT replied that basically, the proposed regulatory regime for inbound travel agents was modelled after that for outbound travel agents. Whilst it was beyond the jurisdiction of the Hong Kong Government to regulate any mal-practices of overseas travel agents who deployed improper means to attract people to join tours to Hong Kong, TIC and local inbound travel agents had established an industry network through which they would be able to obtain information for self regulation within the industry. Complaints from tourists also served as another major source of information. Moreover, the Registrar of Travel Agents was/would be empowered under the Travel Agents Ordinance (TAO) (Cap.218) to obtain such information from outbound/inbound travel agents in Hong Kong if he considered the information relevant to an investigation into a suspected breach of statutory provisions or licensing conditions by a travel agent.

18. Members noted that currently, the board of directors of TIC comprised 21 members, four of whom were non-industry members appointed by the Financial Secretary. With the introduction of the regulatory regime for inbound travel agents, TIC was prepared to expand its board of directors to ensure a wider representation of interests within the trade. In this connection, Mr SIN Chung-kai opined that the proportion of non-industry members in the board should be increased to at least one-third. He also suggested that TIC should be renamed to reflect its status as a body representing travel agents only rather than the whole travel industry.

Admin. 19. In response, CT clarified that the name of TIC and the composition of its board of directors were enshrined in the Memorandum and Articles of the Association (MAA) of TIC, rather than in the law. However, amendments to important provisions in the TIC's MAA also required the approval of the Financial Secretary. CT undertook to convey the views and suggestions of Mr SIN to TIC for consideration.

20. Pointing out that TIC played a dual role of being an association of travel agents as well as a regulatory body of its members, Mr SIN Chung-kai enquired whether appropriate mechanisms had been/would be put in place to ensure that TIC would duly perform its regulatory functions even when there were conflicting demands from its members.

21. CT acknowledged that apart from performing the frontline regulatory functions, TIC also pursued other objectives for advancing the well-being of its members. Under the existing TAO, there were adequate safeguards to regulate the business and activities of TIC. She assured members that similar checks and balances would be built into the proposed regulatory regime for inbound travel agents. CT added that TIC's prudent management of the Travel Industry Compensation Fund and its satisfactory handling of cases involving defaults in the past had inspired confidence of the Government and the general public in the council's capability to perform the frontline regulatory functions effectively. Mrs Selina CHOW pointed

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out that many existing trade and professional bodies also played a dual role as in the case of TIC and this approach had proved to be effective as the community accorded much importance on self-regulation.

22. Noting that TIC would draw up a code of conduct for compliance by inbound travel agents upon enactment of the proposed legislation, Mrs CHOW expressed concern on whether the process would be open and transparent such that the resultant code would be acceptable to the trade and the community. She also enquired whether the Administration had considered converting TIC's codes of conduct into law.

23. In response, CT advised that the Administration did not intend to make TIC's code of conduct statutory, as rigid provisions might be counter-productive for TIC to exercise effective supervision on its members. Furthermore, this was not a common practice for most professions and trades in Hong Kong. Currently, TIC was working on the draft code of conduct for inbound travel agents. In this respect, the Administration would further consult Members when the Bill was scrutinized by the Legislative Council.

24. In reply to Mr HUI Cheung-ching's enquiry about the figures on complaints from tourists against inbound travel agents, the Assistant Commissioner for Tourism advised that, TIC had received 19 and 31 complaints against inbound travel agents in 1999 and 2000 respectively. Of these complaints, 9 complaints in 1999 and 10 complaints in 2000 were related to shopping activities.

25. Mr Howard YOUNG enquired about the resource requirement of the Travel Agents Registry for the proposed licensing of inbound travel agents. CT advised that the current plan was for the Registry to absorb this new area of work with existing resources. The Registry would adopt the same approach for processing licence applications from inbound and outbound travel agents, and for handling complaints about and making inquiries into alleged mal-practices. She also remarked that while the Registry had adhered to the principles of full cost-recovery in charging the licence fee for travel agents, there had been no increase in the fee since 1995.

26. The Chairman concluded that members were generally in support of the legislative proposals covered by the Bill, while they were keen to pursue a comprehensive and practicable regulatory regime for inbound tourism to afford adequate protection for tourists.

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V Legislative proposals to streamline ship registration and improve freight container handling, stacking and transportation safety
(LC Paper No. CB(1)320/00-01(04) - Information paper provided by the Administration)

27. The Deputy Secretary for Economic Services (DS/ES) briefed members on the legislative proposals to streamline ship registration and improve freight container handling, stacking and transportation safety as set out in the information paper.

28. In reply to the Chairman's enquiry about the promotional strategy for the Hong Kong Shipping Register (HKSR), DS/ES advised that in order to maintain and enhance the status of Hong Kong as an international shipping hub, the Government adopted a broad-based promotional strategy to attract investment from the international shipping community, targeting at countries with a well developed shipping industry such as Korea, Japan, the United States, European countries, and the Mainland. In the recent promotional programme, promotional visits had been made to leading shipping companies in Hong Kong and those in the aforesaid countries.

29. Mr CHAN Kam-lam enquired about the differences between the new Flag State Quality Control (FSQC) system and the previous mandatory flag state survey (MFSS) system, and how the FSQC could ensure that ships registered with the HKSR were in compliance with the international maritime convention requirements. In reply, DS/ES advised that FSQC had replaced the previous initial registration inspections and five yearly mandatory safety equipment surveys by the Hong Kong Marine Department (MD) surveyors. Under the FSQC system, the focus had shifted towards more effective monitoring of the quality of surveys carried out by the authorized classification societies and the safety management of ships by shipowners and operators. The Chief, Marine Incident Investigation (C/MAI) elaborated that the Administration had reviewed the system in the light of present-day circumstances and found that the MFSS system was not cost-effective as deficiencies might not be detected during the five-year period between mandatory surveys and it was also costly to send out Government surveyors overseas solely for carrying out the mandatory surveys.

30. C/MAI further advised that under the FSQC, MD carried out ongoing monitoring of the safety standard of Hong Kong registered ships. Every ship was required to be inspected by authorized classification societies at least once a year and the survey reports would be forwarded to MD for analysis. Any ship suspected of deteriorating standards would be inspected by the surveyors of MD for further assessment. C/MAI further advised that MD had established a set of criteria to determine which ships should be inspected and it was estimated that MD would inspect about 10% of the ships on the HKSR under the FSQC system every year.

31. Noting that only a small percentage of ships on the HKSR would be inspected by MD under the FSQC system every year, Mr CHAN Kam-lam expressed concern on whether the FSQC system was adequate for ensuring the quality and compliance of

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Hong Kong registered ships. In response, DS/ES advised that with the support of a comprehensive database and strict inspection selection criteria, the FSQC system had provided a cost-effective system for quality assurance. He explained that ships with serious deficiencies were subject to detention by other port State Controls. The detention rate for Hong Kong registered ships had been very low since the implementation of the FSQC system and this reflected that the system had worked well in ensuring the quality of Hong Kong registered ships. In view of members' concern, he undertook to provide further information on the FSQC system and how it compared with the previous MFSS system.

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32. In reply to Mr CHAN Kam-lam's enquiry, DS/ES and C/MAI advised that Hong Kong had signed agreements with seven Classification Societies (the names of which had been set out in the discussion paper) authorizing them to act on behalf of the Hong Kong Administration for survey and certification functions for Hong Kong cargo ships. These Classification Societies were selected out of the 11 established Classification Societies in the world on account of their renowned professional standards.

33. The Chairman and Mr CHAN Kam-lam considered that the low detention rate of Hong Kong registered ships might be attributed to the effectiveness of the previous MFSS system rather than the new FSQC system which had only been implemented for some 18 months. They urged the Administration to closely monitor the situation and report the status to the Panel after a longer period.

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34. Mrs Miriam LAU highlighted the importance of ensuring the quality of ships registered in Hong Kong, and supported the adoption of the FSQC system. She remarked that the system was considered innovative and viable in the international shipping community, and indeed, many other port State Controls had drawn reference from the FSQC system in enhancing their own systems.

35. Noting that under the proposed Freight Containers (Safety) (Examination Procedure) Order, there was a requirement for a competent person to carry out the examination of a container in use, Mrs Miriam LAU enquired about the qualification of the competent person referred to in the Order. The Assistant Director of Marine (Multi-lateral Policy) (AD/MP) advised that at present, there were about 140 persons who had been certified by the Institute of International Containers Lessors, Ltd. for carrying out the examination of containers in Hong Kong.

36. Mrs Miriam LAU queried why a fee of \$5,500 was necessary for recovery of the full cost incurred by MD in giving approval for an examination procedure under the Freight Container (Safety) Ordinance (FCSO). AD/MP advised that under the International Convention to Safe Containers 1972, container owners were responsible for the maintenance and repair of their containers in accordance with the examination procedure approved by the relevant state authority. Accordingly, container owners were required to submit the examination procedure in respect of their containers certified under Hong Kong Administration to the Director of Marine for approval

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Admin.

under the FCSO. A single set of approved examination procedure would apply to containers of the same design type series and the proposed fee of \$5,500 was an one-off fee for each set of examination procedure irrespective of the number of containers concerned. The Administration undertook to provide a paper to further explain how the \$5,500 was derived based on the full cost-recovery principle.

VI Hong Kong Electric Co. Ltd.'s proposed tariff revision

(LC Paper No. CB(1)320/00-01(05) - Information paper provided by the Administration)

37. Mrs Minnie LI, General Manager (Human Resources & Public Affairs) of the Hong Kong Electric Co. Ltd. (HEC) gave a presentation on the tariff components adjustment of HEC for year 2000 and the company's tariff adjustment for year 2001. (The information notes for the presentation were tabled at the meeting and issued to members after the meeting vide LC Paper No. CB(1)355/00-01).

HEC's tariff adjustment for year 2001

38. Members noted that with a special one-off subsidy to customers at 1.5 cents/kWh, HEC's overall tariff increase for year 2001 would be 4.87%. Given that HEC had attained a profit of over \$4 billion for year 1999 and some \$2 billion for the first six months of year 2000, Mr YEUNG Sum queried the need for HEC to increase its tariff at this stage. Making reference to Government's recent decision to freeze a number of government fees and charges directly related to people's livelihood, he opined that HEC, being a public utility company, should give regard to its societal responsibility and freeze any increase in tariff given the company's substantial earnings and the economic hardship faced by the public. He stated that Members of the Democratic Party would object to any increase in fees and charges of public utilities directly affecting people's livelihood especially at this time of economic hardship. They would therefore object HEC's tariff increase for year 2001.

39. Mr K S TSO, Managing Director of HEC responded that HEC could not make a profit in excess of the permitted return as stipulated in the Scheme of Control Agreement (SCA) entered into by the Government and HEC. On the other hand, HEC had been maintaining reliable electricity supply and quality services for its customers. Regarding the profit for the company for year 2000, he said that he could not disclose the information at this stage as it was commercially sensitive information.

40. The Acting Secretary for Economic Services (SES(Atg)) pointed out that the SCA between HEC and the Government was a legally binding agreement. Under the SCA, HEC could plan to secure revenue sufficient to cover its operating costs and to achieve the permitted return provided that its obligations were fully discharged. She assured members that the Administration had examined HEC's tariff revision proposal in detail before endorsing the proposal. The Administration had also encouraged the company to explore ways to lower the tariff increase as much as possible.

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41. The Chairman queried whether HEC had to increase its tariff by as high as 4.87% in order to achieve the permitted return for year 2001, bearing in mind the deflation of consumer prices and the enhanced productivity of HEC's operations.

42. Mr K S TSO responded that it was important for HEC to achieve the permitted return because most of the company's shareholders, both local and international, had been investing in HEC in view of its stable earnings. Furthermore, the permitted return had enabled HEC to secure borrowing from banks at relatively low interest rates. If HEC failed to make the permitted return, the credit rating of the company would be adversely affected, resulting in higher borrowing costs. He also remarked that many international investors had their eyes on Hong Kong. It would be detrimental to Hong Kong's reputation if HEC was unable to achieve the permitted return under the SCA.

43. Mr Howard YOUNG queried whether the permitted return was in fact a guaranteed return for HEC. Mr K S TSO said that the permitted return was not guaranteed. In the event that the business in a particular year did not meet forecasts and the balance in the Development Fund was insufficient to meet the shortfall, the actual return could be lower. However, it was the responsibility of the company's management to plan to achieve the permitted return as far as possible. He also confirmed that the company had been able to achieve the permitted return for the past few years.

44. SES(Atg) also confirmed that the permitted return was not guaranteed though the company could plan its business with a view to obtaining sufficient income to cover its operating costs and to achieve the permitted return.

45. The Chairman sought clarification on whether the special subsidy of 1.5 cents was suggested by the Administration or provided by the company on its own initiative, and whether the company could still earn the permitted return notwithstanding the provision of the special subsidy. In response, SES(Atg) affirmed that the company was entitled to plan to secure revenue to meet its operating expenditure and the permitted return. She said that the Administration had urged the company to explore feasible options to improve productivity and to set tariffs at the lowest possible level.

46. Mr CHAN Kam-lam enquired about the duration of the special subsidy and its implications on future tariffs. He asked whether the 1.5 cents "subsidy" would be re-instated through future tariff adjustments. If that was the case, he considered that the provision was simply a public relations tactic and might not be truly beneficial to the public. In response, Mr K S TSO reiterated that the provision of the special subsidy was provided out of the company's profit. The subsidy would last for the whole year of 2001 and there was no intention to recover the subsidy through future tariff adjustments.

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47. In response to an enquiry from Mr Henry WU, SES(Atg) explained that a progressive scale of tariff rates were applied to domestic customers taking into account demand side management principles but standard tariff rates were applied to all commercial and industrial customers irrespective of their level of usage. Members noted that the tariff for HEC's commercial customers and industrial customers would increase by 5.62% and 5.07% respectively.

HEC's adjustment to tariff components for year 2000

48. Mr SIN Chung-kai said that according to his understanding, HEC's tariff components adjustment for year 2000 had taken effect in January 2000, approved by the Administration in June 2000 and then announced by the company in the form of advertisements in September 2000. He queried why the Administration had not taken the opportunity to brief Members on the adjustment in June 2000 when the Legislative Council was in session.

49. Mr SIN Chung-kai and Mr CHEUNG Man-kwong emphasized the need for the Administration to ensure that the company did not earn an extra profit when the community was still facing economic hardship. They pointed out that the sales of electricity of HEC in 1998 was \$9.6 billion and the profit after taxation was \$4.4 billion. In 1999, the sales of electricity were reduced to \$9.5 billion but the profit after taxation was still maintained at \$4.5 billion. The figures indicated that HEC had earned more profit despite a downturn in the economy. Given that HEC sought to maximize its profit as permitted under the SCA, the company should not claim that they had taken actions to avoid any increase in electricity charges to add to the burden of the community. They also questioned whether the Administration had revealed the true picture of HEC's tariff adjustment for year 2000 to the public.

50. In response, SES(Atg) emphasized that the mechanism provided under the SCA was to ensure adequate and reliable electricity supply to meet existing and future demand. This required timely investment in generation, transmission and distribution facilitates from time to time. She assured members that the company would not earn more than the permitted return. In the course of reviewing HEC's tariff proposal for the year 2000, HEC had in fact pointed out the need to increase tariffs in accordance with the SCA but suggested adjustment to the tariff components so that tariff payable by consumers would be maintained at the 1998 level. The Administration agreed to the subsequent adjustment to the tariff components as promulgated because HEC's customers would not need to pay more tariff in 2000 and HEC would not earn more than the permitted return under the SCA. SES(Atg) further pointed out that consumers would benefit from any deferral in increase in electricity tariffs. Even if the deferral was for one year or so, it would still be beneficial to consumers.

51. SES(Atg) further advised that the annual tariff review for year 2000 had been undertaken in conjunction with the examination of HEC's financial plan for 1999 to 2004, the later of which was completed around June 2000. Thereafter, HEC

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undertook preparatory work relating to the tariff component adjustment and the Administration informed the Energy Advisory Committee (EAC) of it. HEC then announced the tariff adjustment in September 2000. She said that since members would like to be briefed on changes in tariff components even when there was no change in the net tariff, the Administration and HEC would be prepared to do so in future.

52. Mrs Selina CHOW highlighted the importance of upholding the spirit of contract and honouring the SCA already in place. She said that the SCA provided the "rules of the game" whereby HEC was provided with the incentives to invest in power generation facilities and consumer interests were safeguarded through proper monitoring by the Administration. She therefore did not object to HEC's tariff adjustments per se so long as these adjustments were permitted under the SCA. She however emphasized the importance of the Administration's role in ensuring that HEC did abide by the SCA in operating its business. In this connection, she sought elaboration on how the Administration and the EAC had performed their monitoring role to safeguard consumer interest.

53. SES(Atg) affirmed that the Administration had exercised due diligence in performing its monitoring role and had taken positive actions to improve the monitoring mechanism. For instance, improvements had been made to forecasting arrangements to ensure that investments would be timely and justified.

54. In response to the Chairman's query on whether the information relating to the tariff review for year 2000 could be released to the Panel, SES(Atg) advised that the review involved commercially sensitive information and disclosure of the information would require HEC's prior agreement. Mr K S TSO said that HEC had provided the Administration with a substantial amount of financial information about the company that would not normally be released publicly. The company would however make appropriate disclosure of financial information in its annual reports.

55. Mrs Selina CHOW opined that it was reasonable for the public to call for greater transparency of HEC's annual tariff review exercises and urged the Administration to seriously consider ways to improve transparency. She pointed out that with the passage of time, certain information that had been regarded as commercially sensitive would no longer be so. Consideration might also be given to convening closed Panel meetings for perusal of sensitive information relating to the tariff reviews.

56. Mr Abraham SHEK opined that it was necessary to uphold the spirit of contract otherwise the confidence of investors in Hong Kong would be jeopardized. While members were at liberty to raise concerns about the societal responsibility of a public utility company, one should recognize that the company operated as a commercial entity and was accountable to its shareholders.

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Fuel clause rebate

57. Mr SIN Chung-kai referred to section 3(2) of the SCA which provided that "HEC will adjust tariffs through the Fuel Clause Recovery Account from time to time to reflect changes in the cost of fuels consumed by HEC for the generation of electricity". He queried whether the changes in HEC's fuel clause rebate (FCR) over the past 24 months were congruent with the changes in the cost of fuels incurred by HEC.

58. Mr Fred LI queried whether the FCR was in fact a tool to adjust the net tariff rather than a tariff component to reflect the fluctuation of the fuel cost to the company. He remarked that coal was the main fuel for HEC to generate electricity but, all along, information on the prices of coal had not been made available to members.

59. SES(Atg) explained that the tariff components of HEC comprised the basic tariff, the FCR and the rate reduction rebate. The basic tariff included a standard fuel cost as agreed with the Government. The difference between the standard fuel cost and the actual fuel cost was passed on through the Fuel Clause Recovery Account to customers by way of rebates or surcharges. In the long run, the Fuel Clause Recovery Account should be in a balance, but in the short term, the account balance could be positive or negative. Over the past few years, the actual cost of fuel had been on a downward trend and there had been upward adjustments to the FCR.

60. SES(Atg) further advised that the existing fuel clause adjustment mechanism was to set the FCR or surcharge having regard to the difference between the fuel cost forecast and the standard fuel cost included in the basic tariff, the Fuel Clause Recovery Account balance and the need to stabilize tariff. The rebate or surcharge would be put to the Administration for approval during the annual tariff review. The Administration and HEC had the same understanding in this regard.

Independent research to follow up on the issue

61. Mr SIN Chung-kai suggested that the Research and Library Services Division (RLSD) of the Legislative Council Secretariat should be asked to undertake a study on the implications of HEC's tariff components adjustments on the medium and long-term profit of the company and on the consuming public.

62. Responding to Dr Philip WONG's view that Mr SIN's suggestion should be referred to the House Committee for a decision, the Chairman remarked that if the Panel could arrive at a consensus view on the matter, it would not be necessary to refer the matter to the House Committee. He then invited members' views on Mr SIN's suggestion.

63. Mr CHAN Kam-lam and Mrs Selina CHOW cast doubt on the meaningfulness of such a research study. Mr CHAN opined that the crux of the

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issue was whether the required information was accessible to staff of RLSD. Mrs CHOW also expressed serious concern as to whether RLSD would be able to obtain the required information about HEC as the latter might refuse to provide relevant information which they regarded as commercially sensitive. Mr CHAN shared Mrs CHOW's view and remarked that it would be difficult, if not impossible, for RLSD to assess the implications of HEC's tariff adjustments on its profit.

64. The Chairman remarked that the information which RLSD might be able to gather would be from HEC's annual reports and from the Administration.

65. Mrs Selina CHOW suggested that since HEC's tariff adjustment proposals had been examined by the Administration, it might be more appropriate for the Administration to provide the required information to members.

66. Mr SIN Chung-kai however considered that RLSD should be asked to make an attempt in conducting the research. If they encountered any difficulties, they could inform members accordingly. Mrs Selina CHOW disagreed and stressed that RLSD should not be asked to conduct a research if it was obvious that they were unable to obtain the required information for a fruitful study, not to mention the fact they might not have the necessary expertise to undertake the study as suggested by Mr SIN. She maintained that the Administration should be asked to provide relevant information to address the concerns raised by Mr SIN.

67. In response, SES(Atg) said that the Administration's role was to ensure that HEC would not earn more than the permitted return under the SCA. She further advised that the cost of fuel to HEC was determined by a number of factors including the source of supply, whether the fuel was procured on a long term contract or at prevailing market prices and the quality of the fuel procured etc. Regarding the disclosure of information on the cost of coal incurred by the company, she said that past experience showed that the company was wary about disclosing commercially sensitive information for fear it might undermine its position in future negotiation with suppliers. However, in view of members' interest, she undertook to liaise further with HEC on the provision of information on the cost of coal over the past few years to members.

Admin

68. In considering the price trend of coal which was relatively stable over the years, Mr Fred LI reiterated his query that the existing fuel clause adjustment mechanism might have been converted into a mechanism for tariff adjustment, which was already deviated from its original intent. Against this background, he opined that RLSD should also be asked to conduct a research to examine whether the said query was established, taking into account the actual adjustments made to fuel clause rebate/surcharge vis-à-vis the price movement of coal in the past few years.

69. Mrs Selina CHOW opined that specific queries from members could be referred to the Administration for clarification.

Action

70. Mr CHEUNG Man-kwong said that judging from the Administration's response so far, it was clear that they were not prepared to provide relevant information to fully address members' concerns. He therefore opined that RLSD should be asked to carry out a study on the issues raised by Mr SIN Chung-kai and Mr Fred LI. Dr YEUNG Sum concurred with Mr CHEUNG's view and remarked that as the Administration had already taken a position on the issue, RLSD should be asked to conduct a separate study instead.

71. In view of the divergent views of members, the Chairman concluded that if members wished to pursue the matter further, they should refer the issue to the House Committee for further consideration.

VII Any other business

72. There being no other business, the meeting ended at 5:10 pm.

Legislative Council Secretariat
15 January 2001