

立法會
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LegCo Panel on Environmental Affairs

**Minutes of special meeting held on
Monday, 3 June 2002, at 4:30 pm
in the Chamber of the Legislative Council Building**

Members present : Hon CHOY So-yuk (Chairman)
Hon Cyd HO Sau-lan (Deputy Chairman)
Ir Dr Hon Raymond HO Chung-tai, JP
Hon Martin LEE Chu-ming, SC, JP
Hon SIN Chung-kai
Hon LAU Kong-wah
Hon Miriam LAU Kin-yee, JP
Hon Emily LAU Wai-hing, JP
Hon LAW Chi-kwong, JP
Hon Henry WU King-cheong, BBS
Hon LAU Ping-cheung
Hon Audrey EU Yuet-mee, SC, JP

Members absent : Hon CHAN Yuen-han, JP
Hon WONG Yung-kan
Hon Abraham SHEK Lai-him, JP
Hon Tommy CHEUNG Yu-yan, JP
Hon Michael MAK Kwok-fung
Dr Hon LO Wing-lok

Public officer attending : Environment and Food Bureau

Mr Thomas CHOW
Deputy Secretary

Attendance by invitation : The Conservancy Association
Dr NG Cho-nam
Friends of the Earth (Hong Kong)
Mr CHUNG Po-lun
Research Coordinator
The World Wide Fund for Nature, Hong Kong
Ms WOO Lai-yan
Conservation Officer
Greenpeace
Mr HO Wai-chi
Executive Director
Hong Kong Environmental Law Association,
City University of Hong Kong
Mr Bryan BACHNER
Chairman
Chinese University of Hong Kong
Prof LAM Kin-che
Director
Centre for Environmental Policy and
Resource Management

Clerk in attendance : Miss Becky YU
Chief Assistant Secretary (1)1

Staff in attendance : Mrs Mary TANG
Senior Assistant Secretary (1)2

I Amalgamation of the policy portfolios of Environment, Transport and Works

Ir Dr Raymond HO expressed regret that professional institutes from the building sector had not been invited to give their views on the subject. The Chairman

said that professional institutes were welcome to attend the meeting, and that they would have been invited had Dr HO notified the Secretariat accordingly. She added that it was a common practice for the Panel to invite views from green groups and academia. Invitations would also be extended to relevant parties as appropriate. As per Dr HO's request, the Chairman agreed to include the Environmental Group of the Hong Kong Institution of Engineers in the list of consultees of the Panel. Ms Cyd HO said that as the meeting was convened at a short notice, consideration could be given to inviting professional institutes and other interested parties to express their views if it was decided that another meeting would be held shortly to continue discussion on the subject. Meanwhile, Mr LAU Ping-cheung concurred with Dr HO that professional institutes be invited to submit their written views on the subject.

Meeting with Conservancy Association (CA)

2. Dr NG Cho-nam said that CA was of the view that the revised proposal of amalgamating the policy portfolios of Environment, Transport and Works was worse than the original proposal of merging the Environment and Food Bureau (EFB) with the Health and Welfare Bureau (HWB). The revised proposal would give rise to conflict of interest among the three policy portfolios, resulting in a likely compromise of environmental needs to the economic gains of transport and infrastructure developments. CA would support the establishment of an independent Environment and Resources Bureau which, apart from assuming a monitoring role on the environmental impact of transport and infrastructure developments, would also be responsible for coordinating the allocation of resources in the implementation of environmental policies governing pollution control, environmental planning, waste management, energy policy, water supply, conservation, cultural and historical heritage, management of agriculture and fisheries resources, greening and landscaping.

(Post-meeting note: The submission from CA was circulated to members vide LC Paper No. CB(1) 1928/01-02(01).)

Meeting with Friends of the Earth (FOE)

3. Mr CHUNG Po-lun said that FOE was opposed to the proposed amalgamation of the policy portfolios of Environment, Transport and Works lest the greater emphasis on infrastructure developments would outweigh environmental considerations. This was repeatedly evidenced by recent incidents, including Route 10, West Rail and North-South Link on Lantau Island. The proposal would also deprive the public of the right of access to information about the decision-making process in development projects and undermine the transparency as demonstrated by the Spur Line project. Since environmental improvements required the concerted efforts of different departments, FOE concurred with CA that an independent policy bureau be established to oversee and monitor the policy portfolio of Environment.

Meeting with World Wide Fund for Nature, Hong Kong (WWF)

4. Ms WOO Lai-yan said that WWF saw merit in the previous inclusion of the policy portfolio of Environment under the Planning, Environment and Lands Bureau and its subsequent amalgamation with the portfolio of Food to form the Environment and Food Bureau because these portfolios were inter-related with each other. However, the proposal of merging EFB with HWB and the revised proposal of amalgamating the policy portfolios of Environment, Transport and Works were both considered inappropriate as these would result in the amalgamation of unrelated policy portfolios. WWF also considered that as transport and infrastructure developments were sometimes in conflict with environmental considerations, the principal official responsible for the Environment, Transport and Works Bureau might find it difficult to make a balanced decision. The greater emphasis on transport and infrastructure development would most likely surpass environmental needs. WWF agreed with other green groups that an independent bureau be established.

Meeting with Greenpeace

5. Mr HO Wai-chi said that Greenpeace held the view that the proposed amalgamation of the policy portfolios of Environment, Transport and Works was unsatisfactory and had reflected the lack of vision on environmental development. It would also undermine the role of environmental protection in sustainable development. To recognize the importance of the environment, there was a need to set up an independent bureau to oversee and coordinate environment-related development, similar to other developed countries.

Meeting with Hong Kong Environmental Law Association (HKELA), City University of Hong Kong

6. Mr Bryan BACHNER said that HKELA was not able to form any view on the impact of the political decision to amalgamate the policy portfolios of Environment, Transport and Works given the short consultation period. However, it did observe that this was the third institutional change for the portfolio of Environment from the Planning, Environment and Lands Bureau to EFB to the current proposal within a short period of time. Given the controversy surrounding the change, HKELA took the opportunity to emphasize the importance for the Government and the Legislature to ensure that timely and comprehensive consultation with stakeholders would be allowed for in the decision-making process relating to environmental protection. Given that the current proposal would likely give rise to internal conflicts which would undermine the implementation of appropriate law and policy, HKELA considered that the new environmental bureau under the proposed institutional framework should have the authority to settle the conflict among different departments in the decision-making process. It should also be given the autonomy to achieve its statutory obligations, particularly those under section 16(3) of the Environmental Impact Assessment Ordinance (Cap. 499) (EIAO) which stated, inter alia, that “in giving advice pursuant to the Technical Memorandum, the Secretary shall ensure that the effect of his advice was to protect the environment.” The Administration should take this into account in

finalizing the reorganization.

Meeting with Professor LAM Kin-che, Chinese University of Hong Kong (CUHK)

7. Professor LAM Kin-che highlighted the salient points in his submission tabled at the meeting. He pointed out that there were both advantages and disadvantages in the proposed amalgamation of the policy portfolios of Environment, Transport and Works. There would be better coordination and more balanced consideration of different interests if all these portfolios were placed under one bureau and headed by a single principal official. If successfully implemented, the amalgamation would enable the integration of environmental initiatives with transport and infrastructure developments. On the other hand, there was concern that the proposed amalgamation would decrease the transparency in the decision-making process, and that a balanced consideration could not be reached if EIA reports did not provide an accurate and comprehensive analysis of the environmental impact brought about by development projects. In this connection, reference should be made to the partnering approach adopted in Holland for the EIA process whereby approval for development projects was given by the Minister of the Environment after careful consideration of the relevant EIA reports prepared by an independent authority which were subject to scrutiny by the public. If the proposed amalgamation were to proceed, consideration should be given to setting up an independent EIA Commission to give advice, putting in place a mechanism to facilitate the principal official to make a balanced decision in the event of conflict among environmental, transport and works issues as well as ensuring sustainability in the formulation of policies on transport and infrastructure development.

(Post meeting note: Professor LAM's submission was circulated vide LC Paper No. CB(1) 1928/01-02(02).)

8. The Chairman informed members that the Chief Executive (CE) called her this morning and asked her to convey to members of the Panel that he attached great importance on the policy portfolio of environment, and that environmental protection would not be compromised as a result of the proposed amalgamation.

Meeting with the Administration

9. With the Chairman's consent, the Deputy Secretary for Environment and Food (DSEF) took the opportunity to respond to some of the points raised by the deputations. He said that the Administration had carefully considered the suggestion of setting up an independent bureau for the policy portfolio of Environment. While an independent policy bureau would allow for more focused attention on environmental issues, the implementation of environmental policies such as air quality control would require the concerted efforts of the Transport Bureau, the Transport Department and the transport industry. Likewise, the implementation of waste reduction policies would require the cooperation from the Works Bureau, the relevant works-related departments as well as the construction industry. Given that the policy portfolios of Environment, Transport and Works were closely related, to ensure better coordination, the proposed

amalgamation of the three policy portfolios was an optimal arrangement from an environmental perspective. Moreover, putting these policy portfolios under one bureau would ensure that the responsible principal official would strike a balance among the three policy portfolios to achieve a sustainable development.

10. Given the land use constraints in Hong Kong, DSEF noted that land of conservation value might have to be used for the development of road and rail network. To this end, EIA would be conducted to identify the prevention and mitigation measures which, in case avoidance was not practicable, would reduce the environmental impacts from major development projects to an acceptable level. As rightly pointed out by HKELA, the Secretary was required under EIAO and its technical memorandums to ensure that the effect of his advice was to protect the environment, and that he would have the authority to settle the conflict which might arise among different departments in the decision-making process with regard to EIA. As such, the concern that environmental protection would be compromised to meet development needs should not arise. Moreover, the requirement for EIA reports to be examined by the Advisory Council on the Environment and the public would ensure transparency of the decision-making process.

Discussion session

11. Ms Emily LAU thanked the deputations for attending the meeting at such a short notice. The need to call for this urgent meeting was because the Administration would seek the approval of the Establishment Subcommittee on 6 June 2002 for the creation of posts for the new accountability system. She then sought deputations' views on CE's commitment to protect the environment. Dr NG Cho-nam/CA said that he personally felt that CE had not done enough for the environment. The proposed amalgamation of the policy portfolios of Environment, Transport and Works should not have been worked out if CE attached great importance on the environment. Mr HO Wai-chi/Greenpeace said that judging from past performance, Government had not been keen in improving the environment or identifying solutions to environmental problems. Through the Chair, DSEF said that in his 1999 Policy Address, CE had announced the implementation of a series of environmental initiatives. Since then, a great deal had been done to protect the environment as evidenced, for example, in the improvement of air quality in Hong Kong. Ms Cyd HO was not convinced of the Administration's response. She pointed out that instead of setting up the Council for Sustainable Development to steer conservation and sustainable development policies, the Administration had only established a Sustainable Development Unit under the Administration Wing.

12. On the *proposed amalgamation and alternative options*, Ms Emily LAU enquired about the extent of involvement of EFB in the proposed amalgamation. She also expressed regret that representatives from the Constitutional Affairs Bureau (CAB) were not present at the meeting. Ms Cyd HO echoed that representatives from relevant bureaux, such as Transport Bureau, Works Bureau and CAB, should attend the meeting to answer members' questions. DSEF explained that as the focus of the meeting was on the work of EFB under the proposed amalgamation, it was considered

more appropriate for representatives of EFB rather than CAB to answer members' questions. On the extent of involvement of EFB, DSEF said that as this involved internal discussion within the Government, he was not in a position to disclose such information.

13. On the *rationale for abandoning the original proposal of merging EFB with HWB*, DSEF explained that since the policy portfolios of Food safety, Environmental hygiene and Health were closely related to each other, the proposal was meant to minimize the changes involved. In the light of concern that the new schedule resulting from the merger was considered unduly heavy, the Administration had revised the proposal to amalgamate the policy portfolio of Environment with that of Transport and Works. He stressed that it was inaccurate to say that the portfolio of Environment would be subsumed under that of Transport and Works, or that environmental interests would be compromised as a result of the proposed amalgamation. In fact, the three policy portfolios would be accorded equal importance and environmental considerations would be incorporated into transport and works projects.

14. Ir Dr Raymond HO noted that at present, there were four works-related policy portfolios, namely, Planning and Lands, Environment and Food, Transport as well as Works. It would be best if all these portfolios could be placed under the same bureau to allow for better coordination. As this could not be done, the Administration had proposed to amalgamate the policy portfolios of Environment, Transport and Works. He sought deputations' views on whether the proposal would be able to achieve its objective and how conflicts could be resolved. Ms WOO Lai-yan/WWF said that the problem with the existing arrangement was attributed to the lack of environmental awareness of the works-related bureaux/departments. There was hence a need to enhance environmental awareness in the planning of development projects. Dr NG Cho-nam/CA said that green groups had been advocating a partnering approach in implementing environmental policies. To this end, greater transparency and more clearly defined objectives were required. He also drew members' attention to the possible conflict of interest arising from the proposed amalgamation and the likely compromise of environmental interest to development projects on account of their economic gains. Mr HO Wai-chi/Greenpeace said that in addition to the partnering approach, the Administration should also take account of constructive opinions from all stakeholders. Through the chair, DSEF clarified that infrastructure development projects would only be implemented on a need basis. These projects had to go through the EIA mechanism to ensure that potential environmental impacts could be avoided and, where this was not possible, reduced to acceptable levels.

15. Ir Dr HO said that in the past, many infrastructure developments were delayed due to the lack of coordination, resulting in waste of resources. With the proposed amalgamation under the accountability system, the principal official concerned would be accountable for his/her own portfolios and his/her views would be presented at both the Executive and the Legislative Councils. He sought deputations' views on whether the situation would be improved after the implementation of the proposed amalgamation. Dr NG Cho-nam/CA said that while there would be a more efficient

governance as all conflicts would have been resolved at Bureau level before development proposals were submitted to the Executive Council for approval, there were concerns that environment protection would be undermined under such circumstances.

16. On the *proposal of setting up an independent bureau for the policy portfolio of Environment*, Ms Emily LAU noted that this was at variance with the Government's intent of streamlining structure under the accountability system. She sought deputations' views on how the proposed amalgamation could enable better coordination in respect of environmental policies to ensure sustainability of development. Dr NG Cho-nam/CA reiterated that environmental protection would likely be compromised for transport and infrastructure development which would have far greater financial returns. He added that if the policy portfolio of Environment were to be amalgamated with other portfolios, CA would prefer it to be merged with that of Planning since potential environmental impacts could be avoided with proper planning. The two policy portfolios would be complementary to each other and would result in streamlining of structure. Given the limited information available and the lack of consultation, Mr CHUNG Po-lun/FOE said that he was not able to comment on the streamlining of structure. On the proposed amalgamation, he said that apart from the policy portfolios of Transport and Works, consideration should be given to amalgamating the policy portfolio of Environment with that of Planning and Economics if it was the Government's intention to enhance coordination since all these policy portfolios were inter-related. He also pointed out that there would still be cooperation even if independent bureaux were set up for different policy portfolios. It would be for CE to decide in the event of conflict among policy bureaux taking into account the need for sustainable development.

17. Through the chair, DSEF said that while the policy portfolios of Environment, Planning and Lands were closely related, there were concerns that amalgamation of the three portfolios would again result in an overly heavy schedule. Besides, it was not desirable to separate the policy portfolios of Planning and Lands from Housing, the Administration therefore decided that the policy portfolio of Environment be amalgamated with that of Transport and Works instead.

18. Mr SIN Chung-kai sought deputations' views on the following proposals -

- (a) establishment of an independent Environmental Bureau;
- (b) amalgamation of the Environment portfolio with the Planning portfolio;
- (c) merging of EFB with HWB; and
- (d) proposed amalgamation of the Environment, Transport and Works portfolios.

Dr NG Cho-nam/CA said that there was no conflict in the original proposal of merging EFB with HWB as their policy portfolios complemented each other. The same principle also applied to the amalgamation of the policy portfolios of Environment and Planning. However, there would be serious conflicts in the proposed amalgamation of the portfolios of Environment, Transport and Works. His views were shared by Mr CHUNG Po-lun/FOE. They pointed out that some measures to improve air quality through control of vehicular emissions and an earlier scheme to encourage light vehicles to switch from diesel to petrol could not be implemented because of the strong opposition from the transport industry. Mr HO Wai-chi/Greenpeace said that Greenpeace would only support the setting up of an independent bureau to take forward environmental policies since other alternative options were not acceptable.

19. Noting that there would be two Permanent Secretaries under the new institutional framework, Ir Dr Raymond HO enquired about the division of labour between these two Permanent Secretaries. DSEF advised that, upon the formation of the new Environment, Transport and Works Bureau, one Government official ranked D8 would be appointed as the Permanent Secretary responsible for the policy portfolio of Environment while another official of the same rank would be appointed as the Permanent Secretary for the policy portfolios of Transport and Works.

20. On the *implications of the accountability system on the EIA process*, Mr Bryan BACHNER/HKELA pointed out that Part V of EIAO on Technical Memorandum stated that the Director of Environmental Protection (DEP) might seek and be authorized to follow the advice of the principal official. He expressed concern on how the conflict between the principal official and DEP could be resolved. Professor LAM Kin-che/CUHK opined that if it was decided that DEP's decision was to be overturned, the Secretary should provide justifications for making such a decision. He added that the setting up of an independent EIA Commission similar to that in Holland would help the Government in assessing EIA reports. To improve transparency in the EIA process, Mr CHUNG Po-lun/FOE considered that efforts should be made to improve the existing communication channels with a view to encouraging greater public participation.

21. Ms Cyd HO enquired whether DEP, in exercising his statutory authority under EIAO to offer his comments on any proposed development projects, would be contravening the provisions of the composite civil service circular setting out the working relationship between civil servants and principal officials. DSEF said that he was not in a position to comment on this since the circular referred to had yet to be issued. He nevertheless assured members that the EIA process would be adhered to in the implementation of major development projects.

22. Mr LAU Ping-cheung said that he supported the proposed amalgamation of the policy portfolios of Environment, Transport and Works as this would help resolve some conflicts between environmental protection and infrastructure development through better coordination, thereby saving time and resources. It would be best if the proposed amalgamation could include the policy portfolio of Planning as proper planning would avoid potential environmental impacts. He enquired if the

Administration would consider setting up an independent authority to oversee the EIA process to ensure that the decisions made would be in the best interest of Hong Kong. DSEF said that EIAO and its technical memorandums had set out clearly the statutory duties of DEP and the legislative requirements to be followed by project proponents to prevent and, where avoidance was not practicable, to reduce adverse environmental impacts to acceptable levels.

23. On the *need for partnering approach in implementing environmental policies*, Ms Miriam LAU said that members of the transport industry were not polluters, and that they did care about the environment. They had shown their commitment and support in realizing measures to protect the environment as evidenced by the successful implementation of the Liquefied Petroleum Gas Taxi Scheme. She was particularly impressed with the partnering approach adopted by the Government of Holland in implementing its environmental policies and asked Professor LAM Kin-che how this approach could be applied in Hong Kong to enable a sustainable development. Professor LAM Kin-che/CUHK said that during his visit to Holland, he had observed the mechanism through which the different policy portfolios interacted and complemented each other. There was a high degree of transparency in the process. Approval for development projects would only be given after careful consideration of the EIA reports prepared by an independent authority. Clear policies were formulated and specific targets were set in achieving a sustainable development. He supported the adoption of a partnering approach in implementing government policies. He said that in a recent congress on the EIA mechanism held in Hong Kong, he had invited all the stakeholders to get together with a view to establishing a partnering approach in the EIA process.

24. The Chairman said that she would welcome further views from interested parties which should reach members before the meeting of the Establishment Subcommittee on 6 June 2002. She thanked the deputations for their valuable views and said that there was a need for the Panel to follow up these views at the next LegCo session.

II Any other business

25. There being no other business, the meeting ended at 18:35 pm.