

立法會
Legislative Council

LC Paper No. CB(1)282/05-06
(These minutes have been seen
by the Administration)

Ref: CB1/PL/ES/1

Panel on Economic Services

**Minutes of meeting held on
Monday, 24 October 2005, at 12:15 pm
in the Chamber of the Legislative Council Building**

- Members present** : Hon James TIEN Pei-chun, GBS, JP (Chairman)
Hon Jeffrey LAM Kin-fung, SBS, JP (Deputy Chairman)
Dr Hon LUI Ming-wah, SBS, JP
Hon SIN Chung-kai, JP
Hon Howard YOUNG, SBS, JP
Hon LAU Chin-shek, JP
Hon Miriam LAU Kin-yee, GBS, JP
Hon Vincent FANG Kang, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon WONG Ting-kwong, BBS
Hon CHIM Pui-chung
Hon KWONG Chi-kin
- Member attending** : Hon WONG Yung-kan, JP
- Members absent** : Ir Dr Hon Raymond HO Chung-tai, S.B.St.J., JP
Dr Hon David LI Kwok-po, GBS, JP
Hon Fred LI Wah-ming, JP
Hon CHAN Kam-lam, SBS, JP
Hon Abraham SHEK Lai-him, JP
Hon Ronny TONG Ka-wah, SC
Hon Albert Jinghan CHENG
Hon TAM Heung-man

**Public Officers
attending** : **Agenda item IV**

Ms Sandra LEE
Permanent Secretary for Economic Development and
Labour (Economic Development)

Miss Janice TSE
Deputy Secretary for Economic Development and Labour
(Economic Development)

Mr Martin GLASS
Deputy Secretary for Financial Services and the Treasury
(Treasury)

Ms Alice LAU
Principal Assistant Secretary for Economic Development
and Labour (Port, Maritime & Logistics)

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

Staff in attendance : Ms Debbie YAU
Senior Council Secretary (1)1

Miss Winnie CHENG
Legislative Assistant (1)5

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I Confirmation of minutes and matters arising

(LC Paper No. CB(1)96/05-06 - Minutes of meeting held on
13 October 2005)

The minutes of the meeting held on 13 October 2005 were confirmed.

II Information papers issued since the meeting on 25 July 2005

(LC Paper No. CB(1)2395/04-05(01) - Submission on the operation of the
Travel Industry Council

LC Paper No. CB(1)2359/04-05(01) - Tables and graphs showing the
import and retail prices of major
oil products from September 2003
to August 2005 furnished by the
Census and Statistics Department

LC Paper No. CB(1)2326/04-05(01) - Referral from Legislative Council
Members' meeting with Central &

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- Western District Council on 12 May 2005 regarding preservation of the Central Police Station heritage site
- LC Paper No. CB(1)2317/04-05(01) - Referral from the Complaints Division - Construction of Container Terminal 10 in Northwest Lantau
- LC Paper No. CB(1)2232/04-05(01) - Tables and graphs showing the import and retail prices of major oil products from August 2003 to July 2005 furnished by the Census and Statistics Department
- LC Paper No. CB(1)2165/04-05(01) - Tables and graphs showing the import and retail prices of major oil products from July 2003 to June 2005 furnished by the Census and Statistics Department)

2. Members noted the information papers issued since last meeting.

III Items for discussion at the next meeting scheduled for 28 November 2005

- (LC Paper No. CB(1)109/05-06(01) - List of outstanding items for discussion
LC Paper No. CB(1)109/05-06(02) - List of follow-up actions)

3. Members agreed to discuss the following two items at the next meeting scheduled for 28 November 2005:

- (a) Redevelopment plans for the Ocean Park; and
- (b) Progress update on Hong Kong Disneyland.

(post-meeting note: The Administration has subsequently advised that item (a) be re-titled as “Proposed Funding Arrangement for Ocean Park's Redevelopment Plans”).

4. Members also agreed to convene a special meeting to consider the following two items originally proposed for discussion by the Administration at the next regular meeting:

- (a) Fitting-out works for Government Facilities at the Asia Airfreight Terminal 2; and
- (b) Legislative amendments relating to carriage of dangerous goods by air.

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(*post-meeting note*: (i) The special meeting has subsequently been scheduled to be held on Tuesday 29 November 2005 at 2:30 pm. Members have been duly notified on 2 November 2005 vide LC Paper No. CB(1)209/05-06. (ii) The Administration has subsequently advised that item (a) be re-titled as “Fitting-out works for Customs and Quarantine Facilities at the Asia Airfreight Terminal 2”.)

IV Purchase of equity in Digital Trade and Transportation Network Limited
(LC Paper No. CB(1)57/05-06(01) - Information paper provided by the Administration)

5. At the invitation of the Chairman, the Deputy Secretary for Economic Development and Labour (Economic Development) said that on the recommendation of the Hong Kong Logistics Development Council (LOGSCOUNCIL), the Government had concluded an Operating Agreement (OA) with Digital Trade and Transportation Network Limited (DTTNC_o) to develop and implement the DTTN services. In order to uphold the neutrality and non-exclusivity of the DTTN services to be provided by DTTNC_o, the Government also concluded a Shareholders' Agreement (SA) with Tradelink and DTTNC_o, which defined the rights and duties of shareholders of the DTTNC_o, including shareholding structure, corporate governance, and additional safeguards over major decisions. Guided by industry consensus for Government to become a shareholder of the DTTNC_o so as to ensure that the company would develop and implement the DTTN services in compliance with the OA, the Government also concluded a Shares Acquisition Agreement with Tradelink. Under the arrangement, at present, the shareholding of the Financial Secretary Incorporated (FSI) in the DTTNC_o represented 29.17% of the company's issued share capital, with the balance of 70.83% held by Tradelink Electronic Commerce Limited (Tradelink). The Government would seek funding approval from Finance Committee (FC) for the settlement of the acquisition of DTTNC_o shares from Tradelink for a cash consideration of \$31.5 million.

6. In response to the Chairman's enquiry about the development of the DTTN system, the Permanent Secretary for Economic Development and Labour (Economic Development) (PS/ED) recapped that the E-logistics Project Group (ELPG) of the LOGSCOUNCIL had been tasked to take up the proposal to develop a DTTN system. Both LOGSCOUNCIL and ELPG had stressed that the DTTN system must comply with the guiding principles of neutrality and non-exclusivity. ELPG had openly invited interested parties to submit proposals in 2003. Three proposals had been received at the end of the invitation period. After careful and thorough consideration, the Assessment Panel set up by ELPG to evaluate the proposals had found the proposal from Tradelink to be closest to the agreed guiding principles. PS/ED pointed out that no exclusive right had been granted to DTTNC_o to build and operate the DTTN System. Hence, the other two proponents were at liberty to revise their respective proposals and put them to LOGSCOUNCIL for further consideration.

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7. Ms Miriam LAU declared her interest that she was a member of the LOGSCOUNCIL and ELPG. She said that in the past few years, she had participated actively in the development of the DTTN initiative, in particular in industry consultation. She remarked that the DTTN System would offer a neutral e-platform to facilitate information flow and service integration among various trading parties along the supply chain. With DTTN, it would obviate the need for individual players, particularly small and medium-sized enterprises (SEMs), to develop their own systems from scratch. Ms LAU highlighted that since the data provided by the logistics players contained sensitive information such as the names and contact details of their customers, it was highly important that the DTTN System must provide a level-playing field for all stakeholders, and be perceived by them as free from real or potential conflict of interests or sector influence. As such, there was a strong industry call for Government to become a shareholder of the DTTNCo in order to ensure the neutrality of the DTTN system. Given the DTTN System could act as a catalyst to promote electronic business adoption, especially by SMEs, Ms LAU appealed for Members' support for the Administration's proposal which had been thoroughly considered by the LOGSCOUNCIL.

Relationship among the Government, Tradelink and DTTNCo

8. Noting that the Government was a major shareholder of Tradelink which wholly owned DTTNCo, the Chairman questioned the need for FSI to purchase equity in DTTNCo.

9. PS/ED and the Deputy Secretary for Financial Services and the Treasury (Treasury) (DS/FST) advised that currently, the Government's shareholding in Tradelink was 42.49%, which would be lowered to about 16% (before exercise of the overallotment option) after the listing of Tradelink in the Hong Kong Stock Exchange this week. DS/FST pointed out that unlike the circumstances some fourteen years previously, when Tradelink needed Government's support for its initial development and operations, Tradelink was now operating in a competitive environment and it was now timely for the Government to sell its stake in the company.

10. PS/ED further advised that there was a strong industry consensus for Government to become a shareholder of the DTTNCo in order to play an effective role in ensuring that the company would develop and implement DTTN services in compliance with the OA. As such, the Government had decided for a purchase of equity in the DTTNCo through the FSI. In reply to the Chairman, PS/ED confirmed that subject to FC's approval, FSI's shareholding in the DTTNCo would represent 29.17% of the company's issued share capital.

Fair competition

11. Referring to a complaint he had received from an industry player that the operation of Tradelink was anti-competitive, Mr Ronny TONG considered that instead of allowing the free play of market forces, Government's involvement in Tradelink as

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a major shareholder might send a signal to the market that Tradelink was an official or quasi-Governmental body. The unique status of Tradelink meant it might be able to conduct business more conveniently. The same situation now happened again to DTTNCo, rendering it a virtual monopoly in the delivery of DTTN services. Mr TONG was disappointed to note that the complainant had filed the case with the Competition Policy Advisory Group (COMPAG) for over a year but not much progress had been made.

12. PS/ED stressed that there was no question of monopoly. She highlighted that the OA concluded between the Administration and the DTTNCo did not grant the company any exclusive franchise. There was an industry consensus that the Administration should be able to take part in major decisions made by DTTNCo, in particular during its initial operation. It was under such a consensus that the Administration had proposed to acquire DTTNCo shares for the launch and subsequent operation of the DTTN System. PS/ED further advised that under the proposed arrangement, the DTTNCo Board of Directors should comprise 11 members, with six appointed by FSI.

13. Mr Ronny TONG did not agree with the Administration. He believed that the Government could still play a key role in the corporate governance of DTTNCo without being a shareholder of the company. Separately, Mr TONG pointed out that the industry referred to by the Administration was representatives from chambers of commerce or large corporations. He considered that the Panel should provide an opportunity for the affected parties to express their views on the development of DTTN System.

14. DS/ED highlighted that it was the Government's long-standing policy to keep its involvement in commercial operations to the minimum. She explained that initially, the industry had only proposed to set up a separate corporate entity, i.e. DTTNCo, to ensure the neutrality of the DTTN system. Subsequently, the industry had indicated that the lack of direct Government involvement would likely undermine industry support for and subscription to the DTTN System. It was against this background and with the support of the LOGSCOUNCIL that the Administration had in the end decided for a purchase of equity in the DTTNCo. Nevertheless, it had proposed to keep its shareholding to the minimum. FSI shareholding in the DTTNCo would eventually be diluted from 29.17% to 21% following the recruitment of other shareholders. DS/ED stressed that with at least 21% shareholding in the DTTNCo, FSI would have a veto power over matters including acquisition, consolidation or reorganization with other business entity; expansion into other business area, etc as major decisions of the DTTNCo were subject to the approval of 80% of its shareholders before they could be put to vote by ordinary or special resolution (the "80% rule").

15. On the question of fair competition, DS/ED reiterated that the OA did not grant any exclusive franchise to the DTTNCo and the use of DTTN services was voluntary. DTTNCo was required to grant a non-exclusive, royalty free, non-revocable and worldwide licence to anyone who applied to it to use and exercise

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the company's intellectual property rights. This ensured that all DTTN standards, protocols and specifications, to the extent that DTTNCo was the author, would be open and non-proprietary.

16. PS/ED supplemented that the membership of LOGSCOUNCIL consisted of 36 members. Ten of them were representatives of industry organisations in the logistics and related sectors.

17. Mr Ronny TONG remained unconvinced of the Administration's reply and reiterated that it was unfair for the Government to show favoritism to a particular company by purchasing its equity.

18. Mr WONG Ting-kwong also received a complaint from the industry that there was a lack of fair competition in the development of the DTTN System. Referring to the principle of "Big Market, Small Government", he did not subscribe to the Administration's explanation on the need to purchase equity in the DTTNCo, in particular when the Government already held shares in Tradelink. Mr WONG accepted that the Government could provide assistance at the initial operation of Tradelink/DTTNC0. However, it should withdraw its participation to nurture and sustain competition once the market had become mature. Mr WONG agreed with Mr Ronny TONG that the parties concerned should be invited to meet with the Panel or express their written views.

19. DS/FST remarked that the Administration was mindful of its policy to uphold the principle of "Big Market, Small Government". In line with its practice to invest in and undertake infrastructure projects which the private sector was unwilling or unprepared at the inception stage to take forward, the Government had decided to purchase equity in DTTNCo. Once the e-infrastructure had been delivered, the Government could sell down its shares, just as in the case of MTR Corporation Limited or Tradelink, to allow more private sector participation.

20. Dr LUI Ming-wah appreciated the Administration's good intention in enhancing Hong Kong's logistics competitiveness by strengthening its e-infrastructure. However, he considered that the Government should minimize its involvement in commercial endeavors and not to intervene in the free market. As such, Dr LUI had reservation about the Government's proposal to purchase equity in the DTTNCo. Dr LUI reflected the views of the affected service providers that Tradelink, being a quasi-Governmental body, had a competitive edge over its competitors in other projects and monopolize the market. He pointed out that the present proposal might impact on the business environment and turn DTTNCo into a monopoly.

21. Mr SIN Chung-kai echoed members' views and expressed reservation on the Administration's proposal. He remarked that following the Administration's line of thought, the Government should purchase equity of the HKEx since it was also providing a neutral e-platform for interested parties to invest in securities. Mr SIN pointed out that there were many ways to monitor the development and conduct of a service in the market, such as by way of regulation. For example, the Securities and

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Futures Commission was set up to regulate the securities and futures markets in Hong Kong. On fair competition, Mr SIN shared similar concerns and pointed out that other service providers were actually competing with a joint venture partnered between the Tradelink and the Government. He agreed with Dr LUI that there could hardly be genuine fair competition in other deals involving Tradelink in the market. As regards the complaint lodged with COMPAG, Mr SIN understood from the complainant that COMPAG had referred the case to the bureau which was in fact the target of the complaint.

22. DS/ED recapped that there was a strong industry consensus for Government to become a shareholder of the DTTNCo. The industry was worried that the lack of direct Government involvement would likely undermine confidence in and subscription to the DTTN System. In fact, under the proposal, the Government had minimized its financial commitment. Under the “80% rule”, with just 21% shareholding in the DTTNCo, FSI would have a veto power over its major decisions. DS/ED further advised that the SA provided that the DTTNCo might invite other parties to subscribe for new shares in the company. A number of industry organizations such as Hong Kong Shippers’ Council and Hong Kong Association of Freight Forwarding and Logistics Limited etc. were possible shareholders. It was envisaged that the recruitment of other shareholders would dilute the respective shareholding of the FSI and Tradelink, with an eventual shareholding proportion of 21% by FSI, 51% by Tradelink and 28% by others. To this end, Mr WONG Ting-kwong indicated that the Hong Kong Chinese Importers’ and Exporters’ Association had not received any invitation to join DTTNCo as a shareholder.

Benefits of the DTTN system to SMEs

23. Mr KWONG Chi-kin noted that participation of industry players and their acceptance of the DTTN system were imperative to ensuring the success of DTTN. However, he understood from certain SMEs that they were worried that the system which was developed by those large corporations holding shares in Tradelink might not meet their need. To address the problem, Mr KWONG enquired if the LOGSCOUNCIL could consider appointing representatives from SMEs or labour unions as its members.

24. In response, PS/ED assured members that during the assessment process, ELPG had formed a Technical Subgroup to advise on the technical aspects of the proposals in the light of the standards and requirements enshrined in the DTTN Report. Moreover, the DTTNCo was required to perform and comply with standards, protocols and specifications agreed and endorsed by an advisory group, comprising representatives of different industry stakeholders, academics and professional associations, to ensure that the technical standards and business processes adopted would be appropriate for the Hong Kong trade and logistics communities. As regards membership of the LOGSCOUNCIL, PS/ED said that it was the intention of the Administration for the LOGSCOUNCIL to be as representative as possible.

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Way forward

25. Summing up, the Chairman drew the Administration's attention that most members who had spoken at the meeting did not express support for the proposal. The Panel would consider meeting with deputations so that the logistics industry and affected parties could express their views for members to re-consider their position. Given the FSI would only need to obtain FC's funding approval within 12 months from the date (i.e. 31 August 2005) when Tradelink completed transfer of the shares to FSI, the Chairman advised the Administration to re-consider their timetable and not to submit the funding proposal to the FC in November 2005 as originally planned.

VI Any other business

26. There being no other business, the meeting ended at 1:00 pm.

Council Business Division 1
Legislative Council Secretariat
14 November 2005