

Bills Committee on Shenzhen Bay Port Hong Kong Port Area Bill

Land Use Arrangements

Purpose

As requested by Members, this paper provides further information on land use arrangements.

Background

2. By the “Decision of the Standing Committee of the National People’s Congress on Authorizing the Hong Kong Special Administrative Region to Exercise Jurisdiction over the Hong Kong Port Area at the Shenzhen Bay Port” adopted at the Twenty Fourth Meeting of the Standing Committee of the Tenth National People’s Congress on 31 October 2006, the Hong Kong Special Administrative Region (“HKSAR”) is authorized to exercise jurisdiction over the Hong Kong Port Area (“HKPA”) at the Shenzhen Bay Port (“SBP”) according to the laws of the HKSAR from the day on which the SBP commences operation.

3. The “Official Reply of the State Council Concerning the Area of the Hong Kong Port Area at the Shenzhen Bay Port over which the Hong Kong Special Administrative Region is Authorized to Exercise Jurisdiction and the Land Use Period” (Letter No. 132 [2006] of the State Council, hereinafter referred to as “Official Reply”) was made by the State Council on 30 December 2006. The land use right of the HKPA at the SBP shall be acquired by the HKSAR by way of a lease under a lease contract for State-owned land (hereinafter referred to as “lease contract”) signed between the HKSAR Government (hereinafter referred to as “Hong Kong side”) and the People’s Government of the Shenzhen Municipality of Guangdong Province (hereinafter referred to as “Shenzhen side”). The land use period shall commence on the day on

which the SBP commences operation and shall expire on 30 June 2047. With the State Council's approval of a submission made after the parties' mutual consultation and submitted in accordance with the relevant procedures, the land use right may be terminated earlier or the lease may be renewed after its expiry.

Lease Contract

4. Both sides have reached a basic consensus on the lease contract. According to the consensus, the lease contract will include the conditions set out below.

5. The land use right shall be acquired by way of a lease. The land use period of the HKPA shall commence on the day on which the SBP commences operation and shall expire on 30 June 2047. With the State Council's approval of a submission made after the parties' mutual consultation and submitted in accordance with the relevant procedures, the land use right may be terminated earlier or the lease may be renewed after its expiry.

6. The land to be leased is the Hong Kong Clearance Area within the SBP HKPA. The lease contract shall include the Particularized Description of the area of the HKPA. The land to be leased is about 415 654 m² in area.

7. The Hong Kong side shall pay a land rental (land usage cost) annually. The annual rental shall be about ¥ 6 million¹ in the first five years and thereafter subject to periodic review and adjustment².

8. The land shall be used for boundary crossing facilities including complementary facilities for the operation or effective monitoring of the

¹ that is ¥ 15 per m² per year, according to the standard land usage cost in respect of the land designated and allocated in Shenzhen City.

² The rental will be adjusted once every five years. The range of adjustment is the average change (percentage) of the benchmark land premium published by Shenzhen City in the five years immediately before 1 May of the year when the adjustment is made, with a maximum range not exceeding ±30%.

SBP. Any addition, alteration, extension or removal of the HKPA facilities shall be in harmony with the surrounding landscape of Shenzhen City.

9. The Hong Kong side may lease out some parts of the buildings, structures and areas within the land for the installation of complementary facilities necessary for the operation of the Port, such as duty-free shops.

10. The ownership of the land to be leased by the Hong Kong side shall rest with the State. The underground natural resources of the land and anything buried under it shall not be subject to the land use right acquired by lease.

11. The Hong Kong side shall keep and maintain the land in good conditions. Both sides have agreed that where construction works or activities are carried out at the Shenzhen Bay Port, all reasonable cautious measures shall be taken to ensure the safety of the personnel of the control point and that no loss or damage will be caused to the properties.

12. The drafting of the lease contract is now nearing completion. The finalized contract will be submitted to the State Council shortly for approval and signed by both sides. The HKSAR Government will provide the Legislative Council with a copy of the lease contract. The contract will come into effect on the day on which the SBP commences operation. Funds have been reserved under the recurrent vote of the relevant departments for the payment of the rental.

Land Development Cost

13. In past Legislative Council discussions³, Members were informed that Hong Kong and the Mainland had already agreed in principle that each side would bear the development and usage costs for the land used by that side. Members were also informed that in view of the tight schedule, both sides had agreed to proceed in tandem with the finalization of the land development and usage costs to be borne by each side and the construction works for the boundary crossing facilities on site.

14. At the Bills Committee meeting on 7 March 2007, we reported to Members that the whole site in the SBP where the boundary crossing facilities of the two sides would be located was developed by the Shenzhen side. The Hong Kong side was responsible for the cost for developing the land of the HKPA. We have not yet received the audited data relating to the land development cost to be borne by the Hong Kong side.

15. Upon receipt of the audited data from the Shenzhen side, we will consider and confirm the land development cost to be borne by the Hong Kong side. After consulting the LegCo Panel on Security and the LegCo Public Works Subcommittee, we will submit an application to the LegCo Finance Committee for funding in accordance with the relevant procedures.

Security Bureau

28 March 2007

³ At the joint meeting of the Panel on Security and Panel on Transport on 6 May 2003, the Public Works Subcommittee meeting on 11 June 2003, and the Finance Committee meeting on 30 April 2004, at which the funding proposals for the design and construction of the boundary crossing facilities and installation of computer systems for the Immigration Department for the new control point in the HKPA were discussed, we reported that the financial implications of the new control point also include the costs for the land to be used by the new control point.