

立法會
Legislative Council

LC Paper No. CB(1)1650 /10-11
(These minutes have been seen
by the Administration)

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Panel on Economic Development

Minutes of meeting
held on Monday, 24 January 2011, at 8:30 am
in Conference Room A of the Legislative Council Building

- Members present** : Hon Jeffrey LAM Kin-fung, SBS, JP (Chairman)
Hon Ronny TONG Ka-wah, SC (Deputy Chairman)
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Dr Hon David LI Kwok-po, GBM, GBS, JP
Hon Fred LI Wah-ming, SBS, JP
Hon CHAN Kam-lam, SBS, JP
Hon Miriam LAU Kin-yee, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon Vincent FANG Kang, SBS, JP
Hon Andrew LEUNG Kwan-yuen, GBS, JP
Hon WONG Ting-kwong, BBS, JP
Hon CHIM Pui-chung
Hon Starry LEE Wai-king, JP
Hon IP Wai-ming, MH
Hon Mrs Regina IP LAU Suk-yee, GBS, JP
Hon Paul TSE Wai-chun
Dr Hon Samson TAM Wai-ho, JP
Hon Tanya CHAN
- Members attending** : Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
Hon WONG Kwok-hing, MH
Hon WONG Kwok-kin, BBS

Members absent : Dr Hon LEUNG Ka-lau
Hon Albert CHAN Wai-yip

Public officers attending : Agenda item IV

Mrs Rita LAU, JP
Secretary for Commerce and Economic
Development

Mr YUEN Ming-fai, Richard
Commissioner of Customs & Excise

Mrs CHEUNG CHIU Hoi-yue, Alice
Deputy Secretary for Commerce and Economic
Development
(Commerce & Industry)

Mr YAU Kin-chung
Principal Assistant Secretary for Commerce &
Economic Development
(Commerce & Industry)

Mr CHEUNG Sai-yan
Head of Trade Controls

Agenda item V

Mrs Rita LAU, JP
Secretary for Commerce and Economic
Development

Mr Philip YUNG, JP
Commissioner for Tourism

Mr Clement LAU
Assistant Commissioner for Tourism (4)

Agenda item VI

Mr Philip YUNG, JP
Commissioner for Tourism

Mr Clement LAU
Assistant Commissioner for Tourism (4)

Mr Adolph LEUNG
Principal Economist (2)

Agenda item VII

Mr Philip YUNG, JP
Commissioner for Tourism

Mrs Winifred CHUNG, JP
Assistant Commissioner for Tourism (3)

Agenda item VIII

Mr YAU Shing-mu
Under Secretary for Transport and Housing

Ms Doris CHEUNG
Deputy Secretary (Transport)5

Mr Joe TSANG
Chief Assistant Secretary (Transport)

Mr H. P. LIU
Deputy Director of Marine

Mr T. C. SIN
Assistant Director/Planning and Services

Attendance by invitation : Agenda item VI

Hong Kong Disneyland

Mr Andrew KAM
Managing Director

Mr B C LO
Vice President, Public Affairs

Agenda item VII

Hong Kong Tourism Board

Mr James TIEN Pei-chun, GBS, JP
Chairman

Mr Anthony LAU
Executive Director

Miss Cynthia LEUNG
General Manager
Corporate Affairs

Mr Chris FUNG
Senior Manager
Strategic Planning & Research

Agenda item VIII

Hong Kong Recycle Materials & Re-production
Business General Association Limited

Mr SIU Chun-ming
President

Mr LIU Yiu-shing
Vice President

Mr YOUN Yiu-hung
Director

Mr CHAN Sik-kwan
Director

Joint Alliance of PCWA operators

Mr WONG Yiu-kan
Convenor

Mr NG Wai-kwong
Member

Mr CHEONG Chick-cho
Member

Ms LAM Kam-yi
Member

Clerk in attendance : Ms Debbie YAU
Chief Council Secretary (1)6

Staff in attendance : Ms Diana WONG
Senior Council Secretary (1)8

Ms Michelle NIEN
Legislative Assistant (1)9

Agenda Item IV

Mr Timothy TSO
Assistant Legal Adviser 2

Mr Watson CHAN
Head (Research Division)

Mr Michael YU
Research Officer 7

Action

I Confirmation of minutes of last meeting

(LC Paper No. CB(1)1091/10-11 - Minutes of meeting held on
22 November 2010)

The minutes of the meeting held on 22 November 2010 were confirmed.

II Information papers issued since last meeting

(LC Paper No. CB(1)646/10-11(01) - Tables and graphs showing the import and retail prices of major oil products from December 2008 to November 2010 furnished by the Census and Statistics Department)

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

III Items for discussion at the next meeting

(LC Paper No. CB(1)1090/10-11(01) - List of outstanding items for discussion

LC Paper No. CB(1)1090/10-11(02) - List of follow-up actions)

3. The Chairman advised that the next Panel meeting would be held on 28 February 2011 at 10:45 am. The Commerce and Economic Development Bureau had indicated that it would propose items for discussion at a later stage. The Chairman said that he and the Clerk would work with the Administration to finalize the agenda. Members agreed.

4. Referring to the ten measures proposed by the Task Force on the Review of the Operation and Regulation of Mainland Inbound Group Tours under the Travel Industry Council of Hong Kong (TIC) would be implemented in February 2011 and the recent protest of tourist guides against the measures, Mr Paul TSE requested to discuss the measures at the next Panel meeting. Mr TSE also suggested arranging a site visit to the Lantau Island to better understand the improvement measures that could be made to road networks and facilities so as to enhance its tourism appeal.

5. The Chairman said that he would liaise with the Administration on the timetable on the review of TIC's new measures and the site visit.

IV Outcome of public consultation on legislation to enhance protection for consumers against unfair trade practices

(LC Paper No. CB(1)1090/10-11(03) - Administration's paper on outcome of public consultation on legislation to enhance protection for consumers against unfair trade practices

LC Paper No. CB(1)1090/10-11(04) - Paper on legislative proposal to enhance consumer protection against unfair trade practices prepared by the Legislative Council Secretariat (Updated background brief)

FS10/10-11

- Fact sheet on consumer protection in Australia prepared by Research Division of the Legislative Council Secretariat)

Briefing by the Administration

6. At the invitation of the Chairman, the Secretary for Commerce and Economic Development (SCED) briefed members on the outcome of public consultation on legislation to enhance protection for consumers against unfair trade practices as set out in the Administration's paper (LC Paper No. CB(1)1090/10-11(03)). She said that as the Administration's proposals received general support from the public, the Administration maintained the majority of the original proposals. After carefully considering the public views received, the Administration agreed to modify proposals on power to inspect books and documents, and cooling-off arrangement. Regarding books and documents that were required to be kept under the Trade Descriptions Ordinance (Cap. 362) (TDO) or its subsidiary legislation, the Administration would maintain the proposal to empower the Customs and Excise Department (C&ED) to inspect and take copies of them to ensure compliance without being subject to the threshold of suspicion. As regards other books and documents relating to a supplier's trade or business, the Administration would not further pursue the original proposal. The present threshold under section 15(1)(d) of the Ordinance, i.e. the enforcement agency might require the production of these books and documents for inspection and to take copies only if it had reasonable cause to suspect that an offence had been committed, would continue to apply.

7. SCED further advised that there were polarized views on whether there should be mandatory cooling-off and, if so, the scope of application. Having considered in detail the different views, the Administration proposed to modify the original proposal and expand the scope of mandatory cooling-off arrangements to cover consumer transactions involving goods and/or services with a duration of not less than six months. However, in cases where consumers might want to use the products or commence the service immediately, the cooling-off periods could be waived or curtailed by mutual agreement of the consumer and the supplier. SCED said that these arrangements would strike a proper balance between the interests of consumers and suppliers.

Discussion

False trade descriptions

8. Mr Andrew LEUNG remarked that the proposed legislative provisions for prohibiting unfair trade practices would benefit both consumers and honest traders. In view of the proliferation of advertising bluffs and consumer scams in the print media, Mr LEUNG enquired how the Administration would take enforcement action effectively to prohibit such false trade descriptions.

9. The Commissioner of Customs and Excise (C of C&E) said that suppliers of goods and services should provide truthful information on their products in the advertisements. For products or services containing quantifiable and measurable trade descriptions, C&ED would follow-up and perform product tests accordingly. However, for products, such as ginseng, which did not possess a measurable standard of its health claim, consumers should in particular exercise judgment of the claimed benefit. On the other hand, C&ED and the Consumer Council would continue to educate consumers and increase their awareness about cases in which the trade description was considered to be highly exaggerated. SCED added that the enforcement actions against false trade descriptions would depend on the facts of individual cases.

Cooling-off arrangement

10. In response to the Chairman, SCED clarified that the cooling-off period would be set at seven working days on contracts involving goods and/or services with a duration of not less than six months. When a contract was cancelled, suppliers should return to the consumers any money paid, including any security provided, within 30 calendar days after the day on which the contract was cancelled.

11. Mr Andrew LEUNG considered that the implementation of cooling-off arrangement would have an adverse impact on the trade, especially the small and medium enterprises (SMEs) might encounter cash flow problems. He urged the Administration to strike a balance in tackling dishonest traders and preserving operational efficiency for businesses. Sharing similar concerns, Mr Vincent FANG commented that traders could only process the transactions with the credit card companies after the expiry of the cooling-off period and it would affect their cash flow. He enquired whether the Administration had negotiated with the banks to allow more flexible cashflow arrangements for traders.

12. Echoing the view, the Chairman urged the Administration to gain a better understanding of the operational needs of SMEs and not to create cash flow problems and additional administrative cost for them. In addition, the cooling-off arrangement might disadvantage the supplier if new products emerged within the seven-day cooling-off period and consumers exercised the

cancellation rights accordingly. The Chairman further opined that the number of consumer complaints received by the Consumer Council for instance was relatively low when compared to the number of visitor arrivals which could possibly reach 40 million this year.

13. SCED replied that there were views expressed that cooling-off might induce moral hazards and encourage risk-taking by consumers. Nevertheless, the Administration had carefully considered the appropriate scope of expansion and taken into account the concerns of the traders so as to strike a proper balance between protecting the legitimate interests of consumers and maintaining operational efficiency of businesses. The Administration proposed that the cooling-off periods could be waived or curtailed by mutual agreement of the consumer and the supplier. This could help ease the cash flow problem of the supplier and satisfy the immediate product needs of consumers. SCED added that consumers should be able to make an informed choice and free from undue pressure when entering into transactions.

14. Mr Vincent FANG opined that traders might adopt contracts with duration of less than six months so as to circumvent the imposition of cooling-off periods. SCED replied that the Administration had chosen a duration of six months after considering different factors, such as consumer protection and business viability and sustainability. If a cut-off line of three months was adopted instead, the impact on business operations would be even greater. Addressing Mr Vincent FANG's concern that the delivery of goods usually took longer than six months for exporters, SCED clarified that the legislative proposals applied only to business to consumer transactions but not business to business ones.

15. Ms Starry LEE welcomed the Administration's proposal to expand the scope of cooling-off arrangement. While the duration of contracts involving services was easy to ascertain, she urged the Administration to clearly define duration of contracts involving goods with after-sales services which might last for longer than six months, such as upgrade of computer software. She also requested that Amendment Bill should prohibit traders from incorporating in standard contracts default clauses for waiving cooling-off rights.

16. The Deputy Secretary for Commerce and Economic Development (Commerce & Industry) (DS(C&I)) undertook to follow up Ms LEE's concerns on the definition of six-month contracts and relevant clauses in standard contracts during the drafting stage of the Amendment Bill.

Pre-payment

17. In view of the Administration's reservation over the suggestions of establishing trust accounts or compensation funds financed by levies, Ms Starry LEE requested the Administration to seek alternatives in protecting consumers who entered into the pre-payment mode of transaction, such as allowing them to have higher priority in the legal claim against the business should it go bankrupt. DS(C&I) said that pre-payment had worked well all along (as suppliers benefited from better cash flow while consumers usually paid a discounted price) except when the traders had no intention or ability to supply the contracted products/services. If establishment of trust accounts was required, there might not be any incentive for the suppliers to offer the pre-payment at all. It would be more effective to create specific offence for tackling unscrupulous traders who accepted payment without the intention or ability to supply the contracted products/services.

Enforcement

18. Mr WONG Ting-kwong opined that there was no conflict between protecting consumer interests and maintaining favourable business environment. Given that many unsolicited calls were made by frontline sales staff, Mr WONG enquired whether the business owners or the frontline staff would be held accountable when problems arose. C of C&E replied that enforcement would target at the person who initiated the unscrupulous act, regardless of whether he was the owner or the employee.

19. In response to Mr WONG Ting-kwong's enquiry on whether harassing trade practices, such as cold calls from slimming parlours and loan financing agents, would be considered unscrupulous, C of C&E responded that unsolicited marketing calls in themselves would not be considered to be in breach of the proposed legislative provisions. The Administration would issue guidelines for reference by traders. Mr WONG urged SCED to consider regulating such practices under the Unsolicited Electronic Messages Ordinance (Cap. 593).

20. When conflicts arose between the traders and consumers, Mr Vincent FANG queried whether the traders would have any legal basis to defend against consumers' allegations. SCED advised that in order to encourage compliance and facilitate enforcement, a civil, compliance-based enforcement mechanism would be introduced to complement the proposed criminal sanctions with the objective of resolving disputes and stopping unfair trade practices in a more expeditious manner.

Timeframe of implementing the legislative proposals

21. Mr WONG Kwok-hing welcomed the Administration's latest proposals for enhancing consumer protection which were based on the views

received during public consultation. He enquired about the timeframe of the implementation of the legislative proposals and how the Administration would tackle other problems, such as those associated with pyramid selling schemes and telecommunications services, in the interim. SCED advised that the Administration had started preparation for drafting the Amendment Bill, and hoped that it could be introduced into the Council within the current legislative session. As regards pyramid schemes, SCED said that the Administration aimed to strengthen the Pyramid Selling Prohibition Ordinance (Cap. 355) by introducing legislative amendments into the Council within the current legislative session.

22. On measures to be adopted in the interim, SCED advised that the Administration would continue to step up consumer education and enforce the current provisions against unfair trade practices.

23. Summing up, the Chairman urged the Administration to balance the interest of consumers and traders in preparing the legislative amendments, as some of the complaints lodged by consumers were vexatious and frivolous. SCED advised that the Administration had started the preparatory work for legislation and would continue to take into account members' views during the drafting stage of the Amendment Bill.

V Leasing arrangements for the new cruise terminal at Kai Tak

(LC Paper No. CB(1)1090/10-11(05) - Administration's paper on leasing arrangements for the new cruise terminal at Kai Tak

LC Paper No. CB(1)1090/10-11(06) - Paper on the development of new cruise terminal facilities at Kai Tak prepared by the Legislative Council Secretariat (Updated background brief)

Briefing by the Administration

24. At the invitation of the Chairman, the Secretary for Commerce and Economic Development (SCED) briefed members on the proposed leasing arrangements for the new cruise terminal at Kai Tak. She said that the new cruise terminal building and the first berth were expected to be completed and handed over to the operator in mid-2013 to commence operation. SCED then outlined the proposed leasing arrangements, including the term of tenancy, rental mechanism, berthing fees, performance monitoring, mid-term review etc as set out in the Administration's paper (LC Paper No. CB(1)1090/10-11(05)). The Administration's plan was to launch an open

tender for the leasing arrangements in the first half of 2011 and to appoint the operator within 2011 to allow sufficient lead time for the selected operator to accept advance bookings for the terminal before it came into operation in mid-2013.

Discussion

Berthing arrangement

25. In reply to Mr Fred LI, the Commissioner for Tourism (C for Tourism) said that when the new terminal building commenced operation in mid-2013, the first berth could accommodate the world's largest cruise vessels. The second berth, to be completed in 2014, would be able to accommodate mid-sized cruise vessels. Both berths would be able to accommodate mega cruises in 2015, subject to the relocation of a nearby submarine gas mains and the subsequent dredging works at the seabed.

26. The Chairman enquired whether there would be any advantage for bidders who were existing cruise line operators or cruise terminal operators, and whether there would be any regulatory terms to prevent the future operator from only allowing his cruise vessels to berth at the new cruise terminal. SCED said that the Administration would consider the bidders' knowledge of the cruise market and experience in managing cruise terminal in the tender proposals. She emphasized that the agreement would include clauses to ensure that all cruise vessels had equal opportunity to berth at the terminal, thus preventing the future operator from giving preferential treatment to vessels of a particular cruise line.

Rental mechanism

27. Mr Fred LI enquired about the details of the rental mechanism. C for Tourism explained that the bidders, in submitting the tender proposals, were expected to assess the cruise market and propose the berthing fees for the coming 10 years, and the actual fees to be imposed would be capped at the levels proposed. He added that a mid-term review mechanism would be put in place to enable the Government to determine whether any adjustment to the rent level and berthing fees was necessary, taking into account the operator's performance.

28. Ms Emily LAU expressed concern about the long lead time in the implementation of the new cruise terminal project as relevant discussion had started in 2000 but the first berth would only commence operation in mid-2013. She urged the Administration to fulfil its delivery this time round, and sought clarification about the details of the variable rent if the gross receipt decreased.

29. In response, SCED replied that the Government was taking forward the cruise terminal project in full swing and the Government was confident that the new terminal would commence operation in mid-2013. As regards the rental mechanism, she explained that for the variable rent, the Administration would adopt a sliding scale in sharing the annual gross receipt with the operator, under which the percentage of gross receipt to be paid to the Government would increase as the gross receipt increased. Sharing the operator's gross receipt, instead of net revenue, had the advantage of encouraging the operator to control operating cost in a prudent manner in order to achieve a higher return, and provided certainty to the Government in collecting the variable rent.

30. Mr Vincent FANG considered that the leasing requirements set by the Government were very stringent under which the Government did not have to shoulder any risk as the proposed fixed rent would be escalated by year, the variable rent would be part of the gross receipt whereas the berthing fees would be capped at the levels in the tender proposal. Noting that overseas cruise terminals were rather simple in structure but provided convenient services, Mr Vincent FANG enquired how the berthing fees of the brand new, gorgeous cruise terminal could compete with these cruise terminals.

31. SCED responded that since the Government had invested \$8.2 billion in the cruise terminal, taxpayers would expect a reasonable return on the public resources spent. The Administration would not prescribe the minimum fixed rent but allow the bidders to set the level having regard to their financial position, assessment of the world market trend and marketing strategies. The arrangement would strike a balance between adhering to the market-driven principles and protecting the investment return of the Government.

32. Mr Paul TSE urged the Government not to focus solely on the rental income of the new cruise terminal thus neglecting the development of the tourism industry and the benefit of the community. Referring to the Heathrow Airport in London where the outsource of the airport terminal had led to tightening of operating cost and continual use of outdated facilities, Mr TSE expressed concern that the proposed sharing of gross receipt between the Government and the operator would indirectly induce the operator to cut cost in order to maximize profit.

33. SCED advised that the estimated economic benefits to be generated by the new cruise terminal would be \$1.5 to \$2.6 billions per annum, creating 5 000 to 8 000 jobs by 2023. She explained that the current proposal allowed flexibility for the operator to propose a scheme that would best suit

its operation. During the assessment of the tender proposals, the Government would consider whether the proposed terms were feasible and reasonable.

Maintenance of the cruise terminal

34. Mr Ronny TONG enquired about the way to foot the bill for the maintenance and expansion works of the cruise terminal, and the timeframe for the Government to recoup its investment. Mr Vincent FANG also asked the Administration to explicitly state the different parties responsible for maintaining the different parts of the new cruise terminal.

35. SCED responded that under the Government Design, Build and Lease approach, the Administration's income of the cruise terminal would solely come from the rental payment received. In the absence of concrete tender proposals at this stage, SCED remarked that it would be difficult to estimate the timeframe to recoup the investment. Since the cruise terminal would be in use for many years, the rental payment would provide a stable source of income for the Government in the long run. Nevertheless, she highlighted that there would be wider economic benefits to Hong Kong in general through the implementation of a new cruise terminal and development of the cruise industry.

36. As regards the maintenance of the new terminal, SCED said that the design of the cruise terminal building had adopted the latest technology with a view to reducing the maintenance cost. C for Tourism supplemented that based on the funding proposal for the cruise terminal building submitted to the Finance Committee in 2010, the estimated annual recurrent expenditure of the cruise terminal would be approximately \$220 million, including staff and maintenance cost, etc.

Term of tenancy

37. Ms Emily LAU enquired whether the term of tenancy would be extended after 15 years if the performance of the operator was proved satisfactory. SCED responded that the tenancy of the cruise terminal would be subject to open tender after 15 years of its operation.

38. Mr Vincent FANG requested the Administration to give ample time to notify the incumbent operator of the Kai Tak cruise terminal of any upcoming tendering exercise. SCED agreed and undertook to provide the operator with advance notice before the next tendering exercise.

Performance monitoring

39. Referring to the success of the Hong Kong air cargo industry of which the charges were not the lowest in the region yet the services were considered world-class, Ms Starry LEE enquired as to how the Government's appointed management committee would monitor the performance of the operator.

40. Noting that the Government would reserve its right to terminate the tenancy for any breach of non-performance of the tenancy, Mr WONG Ting-kwong enquired about the termination arrangements, if any.

41. SCED responded that as the new cruise terminal would be a government-owned infrastructure, the Administration would ensure the prudent use of public resources to maximize the economic benefits of the terminal to Hong Kong. She said that the operator would need to submit an annual operation and maintenance report to the Government on various aspects, including its business performance, fulfillment of the service pledges, etc. The Government would appoint a management committee, consisting of representatives from the Government, the operator and the industry as well as other personalities, to oversee and monitor the operation of the cruise terminal. While termination of the tenancy would be a last resort, the Government would initiate the termination process at the advice of the management committee if a termination was indeed warranted. SCED added that membership of the management committee would be finalized before appointing the operator of the new cruise terminal.

42. Referring to Ngong Ping 360 in which the termination of the operator had led the Government paying the operator a non-disclosed amount in the name of business confidentiality, Mr Paul TSE requested the Administration to introduce a more transparent mechanism for the termination process for the sake of public accountability. SCED assured members that the relevant mechanism would be transparent and prior to the termination, the operator would be given ample time to improve its performance. Panel members would continue to be briefed on the operating performance of the new cruise terminal on a regular basis.

Assessment of tender proposals

43. Given the positive growth trend in passengers in the Asia Pacific region, Ms Starry LEE considered that the management capability of the cruise terminal operator as evidenced by its past performance and achievement was far more important than other aspects in the leasing arrangements for the new cruise terminal. Ms LEE and Mr Paul TSE enquired about the criteria and their corresponding weightings in assessing the tender proposals. C for Tourism advised that there were four broad criteria and they were the bidders' experience in managing cruise terminal,

proposals for operating the new terminal at Kai Tak, promotional strategies, and the proposed rent to be paid by the operator and the proposed berthing fees. He added that details of the assessment exercise were yet to be finalized but more emphasis would probably be given to the former two criteria.

Competition with the Ocean Terminal

44. In view that the privately-owned Ocean Terminal would still be in use when the new cruise terminal at Kai Tak commenced operation in mid-2013, Mr Fred LI expressed concern about competition between the two cruise terminals. Mr WONG Ting-kwong also remarked that if the current operator of the Ocean Terminal was appointed as the operator of the new cruise terminal at Kai Tak, monopoly might arise thus preventing competition in cruise terminal service. SCED assured members that the Government would seek to appoint the best suitable operator.

45. Mrs Regina IP further remarked that once the Competition Bill was passed, the operator of the Ocean Terminal or operator at the cruise terminal in Shenzhen could not take up the management of Kai Tak cruise terminal as that would constitute significant market presence.

46. SCED responded that the incumbent operator at the Ocean Terminal or any other party had the right to submit a tender proposal for the new cruise terminal. Nevertheless, the Government had been encouraging a competitive business environment so as to enhance consumer welfare. The Chairman suggested that it might be more appropriate for the Bills Committee on Competition Bill to consider the matter.

Development of the commercial component of the new cruise terminal

47. Mr Ronny TONG enquired about the development of ancillary commercial facilities at the cruise terminal building and whether the operator would have a priority in managing these facilities. SCED replied that the passenger terminal would comprise a small commercial area which would be included in the leasing agreement. However, the operator would not have any priority in managing other commercial premises in the Kai Tak Development.

48. Mrs Regina IP opined that the setting of berthing fees should be in line with international standards. However, the rent of the commercial area of the new cruise terminal should be kept low in view that the prime purpose of the terminal was to generate economic benefit to the territory rather than receiving rental payments from small businesses. SCED considered it unnecessary to require bidders to prescribe a rental amount for the shops in

the new terminal and they should be given more flexibility to formulate the tender proposals on a market-driven basis. She also said that interested bidders were welcome to propose alternative uses of the new cruise terminal during the non-peak season.

Other issues

49. In view that other developments at Kai Tak area would still be underway when the new cruise terminal commence operation in mid-2013, Mr WONG Ting-kwong expressed concern that the area surrounding the terminal would be dusty and barren, thus bringing inconvenience to cruise passengers. SCED said that she understood from the Development Bureau that the entire Kai Tak Development would take 10 to 15 years to complete. However, the park adjacent to the cruise terminal, connecting roads, car parking structure, and facilities for tour buses to receive tourists would be completed in tandem with the terminal.

50. Noting the Administration's intention to attract Mainland tour groups to ride on cruises homeporting in Hong Kong to generate economic benefit for the city, the Chairman enquired whether the Administration had any estimation on the number of such Mainland visitors. Highlighting that the Mainland was one of the key source markets for cruise vessels homeporting in Hong Kong, SCED said that the Administration and the Hong Kong Tourism Board had been collaborating with a number of cruise companies and the travel trade to launch promotion in some major provinces and cities in the Mainland, including the Guangdong and Hainan provinces. At the request of the Chairman, SCED agreed to provide information on the income and expenditure associated with the operation of the new cruise terminal at Kai Tak in due course.

Admin

VI Update on Hong Kong Disneyland

(LC Paper No. CB(1)1090/10-11(07) - Administration's paper on update on Hong Kong Disneyland

LC Paper No. CB(1)1090/10-11(08) - Paper on Hong Kong Disneyland prepared by the Legislative Council Secretariat (Updated background brief))

Briefing by the Administration

51. At the invitation of the Chairman, C for Tourism briefed members on

the operating and financial performance of the Hong Kong Disneyland (HKD) in 2009-2010 as set out in the Administration's paper (LC Paper No. CB(1)1090/10-11(07)). In the fiscal year 2009-2010 (FY10), HKD enjoyed record park attendance, hotel occupancy and per capita guest spending since its opening in 2005, and continued to maintain high service standard as evidenced by the positive results in guest surveys. In FY10, the majority of guests indicated that they intended to re-visit HKD in the future and would recommend the Park to others. Over 90% of theme park visitors and hotel guests rated their overall experience as "good" or above.

52. C for Tourism said that despite its improved performance in FY10, HKD should continue to enhance its performance. As the major shareholder of HKD, the Government would continue to monitor the strategy and operation of HKD. The expansion of HKD was proceeding as planned and was expected to be completed in phases by mid-2014. Upon completion of the expansion, three brand new themed areas would be added to the Park with the first one to be completed by the end of 2011. The expansion would enlarge the existing theme park by about 23% and add more than 30 new attractions, entertainment and interactive experiences, bringing the total number of attractions in HKD to over 100.

Presentation by the Hong Kong Disneyland

53. Mr Andrew KAM, Managing Director, HKD said that HKD gathered momentum with steady growth across the board in park attendance, hotel occupancy and visitor spending in FY10. HKD's attendance reached 5.23 million in FY10, a 13% rise over the previous year. As at the end of December 2010, HKD had received over 25 million visitors since its opening, with two-thirds of the guests being non-local visitors. The two hotels at HKD recorded a combined occupancy rate of 82% in FY10, representing an increase of 12% from the previous year. The per capita guest spending had also increased by 7%. This was a result of HKD's enhanced focus on brand presence in key markets as well as HKD's popular special events throughout the year.

54. Mr Andrew KAM of HKD added that despite the fact that there was one less week of operations than in the prior year due to the accounting calendar, HKD's total revenue in FY10 was \$3.013 billion, 19% higher than FY09. The earnings before interest, taxes, depreciation and amortization (EBITDA) was \$221 million, a significant improvement to the loss of \$70 million in FY09. Furthermore, HKD was celebrating its Fifth Anniversary with a year-long "Celebration in the Air". As part of the year-long promotion campaign, since last September, HKD had launched a series of sales and marketing activities in 12 cities among 8 regions, with more than 1 600 travel trade representatives and media partners to promote

all special events. Close to 500 local, Mainland and overseas media reporters were invited to the celebration event on 21 January 2011 to promote HKD locally and overseas.

Discussion

Park attendance

55. In reply to Mr Fred LI's enquiry with regard to the drop of 8% in local attendance in FY10, Mr Andrew KAM of HKD said that the unfavourable impacts of Influenza A (H1N1) virus and the financial crisis in FY09 had adversely affected the attendance of non-local visitors that year as two-thirds of HKD's attendance came from non-local markets. In response, HKD shifted their strategy and focused more on promoting the Park to local guests at that time. When situation normalized in FY10, HKD resumed overseas focus and this made FY10 local visitors lower than those of FY09. Mr KAM stressed that HKD always accorded high priority to attracting local visitors as evidenced in the steady subscription of local visitors to the Annual Passholder programme.

56. Ms Emily LAU expressed concern that there were hardly any visitors in HKD during her recent visit on a Saturday afternoon in November 2010. In response, Mr Andrew KAM of HKD explained that the attendance on that day might have been affected by rainy weather. He emphasized that HKD's attendance of 5.23 million in FY10 was record high since its opening and it would be hard to deduce the overall performance from a one-day experience.

57. In this connection, Mr Paul TSE considered it a good way to boost park attendance by holding mega events near the Park. As regards the overall tourism development of the Lantau Island, Mr TSE urged the Administration to draw reference from the recent development of Sentosa in Singapore into a tourist attraction, review and take the lead in the overall planning of tourism infrastructures on the Island so as to connect the various attractions and enhance the appeal of the Island to tourists.

Marketing strategies

58. In view that the prospective Disneyland in Shanghai was scheduled to be completed by 2015 and the expansion plan of HKD would be completed by mid-2014, Mr Fred LI enquired about HKD's post-2014 plans to compete against the Shanghai Disneyland. Mr Andrew KAM of HKD re-iterated that upon completion of the expansion of HKD, the existing theme park would be enlarged by about 23%, adding more than 30 new attractions, entertainment and interactive experiences. Moreover, HKD had stepped up sales and marketing activities in South-East Asia and overseas.

59. Noting that there were about 36 million visitors arrivals to Hong Kong last year, representing an increase of 28% from the previous year, Mr CHAN Kam-lam commented that the increase of HKD attendance in FY10 was only 13% which was relatively small by comparison. He asked the park management to consider exploring various ways to attract more visitors to the Park by reviewing the existing marketing strategies, adding more innovative programmes and attractions to enhance its tourist appeal and collaborating with the Hong Kong Tourism Board (HKTB) to promote HKD overseas.

60. In response, Mr Andrew KAM of HKD replied that the 13% increase of HKD attendance comprised visitors from Hong Kong, the Mainland and the South-East Asia. Mr KAM also pointed out the need to differentiate between overnight and transit arrivals. Among the Mainland overnight arrivals, HKD registered a 33% growth and beat market growth rate of 20%. As for the South-East Asian overnight arrivals, HKD achieved a 20% growth rate against the market rate of 19%. Mr KAM undertook to continue to step up marketing and sales efforts vigorously to boost patronage, and the recent media visitation to the Fifth Celebration event was a case in point.

61. In light that many visitors came to the Hong Kong for the sake of shopping, Mr Paul TSE remarked that the number of visitor arrivals was unduly inflated, and the overnight visitors or visitors who would visit tourist attractions would be fewer in comparison. To step up marketing efforts, Mr TSE suggested HKD consider sending characters to parade at the Hong Kong International Airport and the boundary points to promote Hong Kong to non-local visitors.

62. The Chairman enquired whether HKD had any plan to adjust the admission fee, accept Chinese Yuan (CNY) and promote the measure in the Mainland so as to increase its revenue. Taking note of the suggestion for consideration, Mr Andrew KAM of HKD replied that HKD had not raised its admission fee since its opening. With the rise of other currencies, especially CNY, the admission ticket of HKD was an attractive bargain. Nonetheless, since the operating cost and revenue of HKD had been adversely affected as a result, HKD would need to find ways to compensate such loss. Mr KAM gave an example where a gift shop was recently opened within the Park to boost in-park spending.

Operating and financial performance

63. Even though HKD had generated an EBITDA of \$221 million in FY10, Mr Fred LI highlighted that the net loss still amounted to \$718 million. Given that management fee and royalty fee were paid to The Walt Disney

Company, he questioned when the Government would recoup its investment and asked the park management to undertake to turn the loss into profit as soon as possible. Mr Andrew KAM of HKD highlighted the competitiveness of HKD after completion of the expansion plan. Mr KAM pointed out that HKD had turned the corner and anticipated a clear straight road ahead.

64. While welcoming the improved operating and financial performance of the park, Ms Starry LEE noted that per capita guest spending in FY10 was approximately \$600. To offset the loss of \$718 million, park attendance would need to be increased by over 1 million. In view that new equipment would be in place in the coming year and depreciation and amortization would increase as a result, Ms LEE enquired about the timeframe and the number of additional visitors needed to turn the operation of HKD into a profit.

65. C for Tourism said that HKD would have to press fully ahead with its expansion plan, and continue with its marketing and promotion activities to drive attendance from local Hong Kong, Mainland China and international markets. He pointed to the substantial economic benefits that HKD had generated for Hong Kong since it commenced operation and added that one should not speculate on HKD's financial performance in the coming years. C for Tourism added that one additional spending of all HKD visitors in Hong Kong was \$9.6 billion in FY10. Taking into account both the direct and indirect value-added generated from the additional spending, 19 000 jobs (in terms of man-year) were created in FY10 and a total of 67 000 jobs (in terms of man-year) during the first five years of operation.

66. Mr Ronny TONG however questioned whether the claimed economic benefits were indeed brought about by HKD as it was difficult to assess whether the Park itself or the increase in total arrivals had led to the increase in Park attendance. He emphasized that the effort spent by the Ocean Park and the Hong Kong Trade Development Council in promoting tourism in Hong Kong should not be ignored. C for Tourism concurred with Mr TONG's view that the satisfactory achievement of the tourism sector was the concerted effort of various stakeholders. As HKD was an important brand of Hong Kong, its performance had a direct impact on the image and tourism development of Hong Kong.

Staffing

67. In reply to Ms Emily LAU's query on the employment of the disabled, Mr Andrew KAM of HKD responded that providing diverse job opportunities was a core value of HKD. Since 2007, HKD had cooperated with a number of non-government organisations and created the

Apprenticeship Programme for persons with disabilities. The Programme provided individuals with disabilities nine months of paid job training with transport allowances in tailor-made roles. At present, 20 of them were permanent cast members of HKD. Furthermore, HKD had been procuring products, services and was expanding scope of procurement based on recommendations of the Social Welfare Department's "Support the Employment of People with Disabilities Limited", an organization established to enhance the self-reliance and work opportunities for persons with disabilities.

Corporate Social Responsibility

68. Referring to HKD's "Green Standards" initiative, Ms Emily LAU urged the park management to consider abolishing the daily firework event to protect the environment. Addressing the concern of Ms LAU about HKD's initiatives in engaging in community activities and the need to offer concessionary tickets for needy children, Mr Andrew KAM of HKD responded that since its opening, HKD has collaborated with over 600 local charities and non-profit organizations in sponsoring free visits to the Park and other activities, benefiting over 1.1 million underprivileged children and families. Two examples of such community programmes were: (a) "Give a Day. Get a Disney Day" Programme under which complimentary tickets for HKD were presented to recognize volunteers who each gave eight hours of their time to a charitable cause, and the programme so far encouraged about 350 000 volunteer hours, benefiting approximately 700 local non-government organizations; and (b) Disney Children's Fund which contributed to programmes benefiting children, seniors and families from underprivileged and local community groups. HKD would continue engaging actively in these community activities.

69. Mr Ronny TONG requested HKD to participate in community service plan and to develop a long-term comprehensive community giving plan, thus benefiting the ones in need such as underprivileged children and children of ethnic minority. Ms Starry LEE also urged HKD to provide ticket concessions or waive admission fee for the elderly to enjoy the Park. In reply, Mr Andrew KAM of HKD said that HKD had spared no effort in its contribution to the society. For instance, through the Disney Children's Fund, HKD had been outreaching to the ethnic minority groups, including programme teaching Chinese language and culture to these children and helping them to integrate into the community.

70. Mr Paul TSE commended the work of the Disney Children's Fund which supported many innovative programmes and provided assistance to the needy, such as supporting the camping use of the Phase 2 land site by the Hong Kong Scout Centenary Jamboree and receiving stranded tourists from

the Philippines with warm hospitality. With its influential brand, Mr TSE urged HKD to continue the good work in the territory.

71. Summing up, the Chairman commended HKD's improvement in its operating and financial results and urged HKD to continue its good work so that break even would result eventually. He requested HKD to take note of the concerns expressed by Panel members to enhance its marketing and promotion strategies, to fulfil its corporate social responsibility providing assistance to the needy and to expand the existing community relation programmes to benefit more social groups.

VII Hong Kong Tourism Board (HKTB) Work Plan for 2011-2012

(LC Paper No. CB(1)1090/10-11(09) -Administration's paper on Hong Kong Tourism Board Work Plan for 2011-2012

LC Paper No. CB(1)1090/10-11(10) -Paper on the Work plan of Hong Kong Tourism Board prepared by the Legislative Council Secretariat (Updated background brief)

LC Paper No. CB(1)1151/10-11(01) -Presentation materials provided (*tabled at the meeting and subsequently issued via e-mail on 24 January 2011*) by Hong Kong Tourism Board (power-point presentation materials) (Chinese version only))

Discussion

Tourism performance in 2010 and outlook for 2011

72. Noting that the number of visitor arrivals hit a new record of 36.03 million in 2010, representing an annual growth of 21.8% versus 2009, Ms Miriam LAU questioned whether such growth was sustainable in view of the unfavorable impacts of the macro-economic environment in 2009. The Chairman observed that the emerging markets presented new growth opportunity, and the appreciation of the Chinese Yuan and the implementation of IVS had led to an increase of visitors coming from the Mainland.

73. Mr James TIEN, Chairman of HKTB, responded that the increase of total arrivals in 2009 compared to 2008 was +0.3%. The 21.8% percentage increase for 2010 was somewhat unexpected which was attributable to the recovery of overseas economies and confidence returning to visitors thus

fuelling overseas travel. The appreciation of the Chinese Yuan and the arrangement for Shenzhen permanent residents to apply for one-year multiple-entry endorsement under the Individual Visit Scheme (IVS) had also led to an increase of about 3 million. Amongst the 22.6 million Mainland arrivals, about half of them were same-day visitors.

74. Commending the growth of visitor arrival in 2010, especially in the long-haul markets and the North Asia markets of Japan and South Korea, Mr Vincent FANG urged HKTB to continue to promote the "Quality and Honest Hong Kong Tours" programme to sustain visitor arrivals from these markets.

75. In response, Mr James TIEN of HKTB advised that the strong growth of 21.1% exhibited by Japan and South Korea markets was mainly due to the appreciation of the local currencies. However, the number of arrivals from South Korea saw a decline of 30% to 40% in 2009 and there was also decline for Japan. So there was not much real growth all-in-all for the two markers in the past two years. As regards the Mainland market, more than 60% of the 22.68 million arrivals were IVS visitors, whereas business travelers, travelers visiting relatives and tour group visitors each took up around 10%. Mr TIEN projected that there would be 12% and 6.7% increase in Mainland and non-Mainland arrivals in 2011.

Strengthen Hong Kong's destination appeal

76. The Chairman commended the successful hosting of HKTB-sponsored events, such as the Hong Kong Food and Wine Year in 2009 and the Record Breaking Dragon and Lion Dance Extravaganza on 1 January 2011 which set a new record in the Guinness World Records. In view that Hong Kong was an international city, the Chairman urged HKTB to attract visitors from all over the world by hosting more such events. The Chairman urged HKTB to re-align the events calendar such that more events would occur during the non-peak season, and to collaborate with local partners to promote events sponsored by the Mega Events Fund.

77. Sharing similar views, Mr Paul TSE urged HKTB to consider the capacity of the local trade and to host events during non-peak seasons since the marginal benefit of hosting events during festivities was relatively small.

78. In response, Mr James TIEN of HKTB said that HKTB would develop dedicated campaigns to promote major third-party events with tourism appeal, including those supported by the Mega Events Fund, catering to the interests of specific visitor markets and segments. He pointed out that the Mid-Autumn Lantern Celebrations held in September 2011 would hopefully draw more visitors to Hong Kong during the quiet travelling period.

79. Considering the "Hong Kong Food and Wine Year" in 2009 a success, Mr Vincent FANG opined that HKTB should continue to host the event and promote it to overseas visitors as well as the locals. Referring to the success of Oktoberfest in Munich, Germany, Ms Miriam LAU opined that the Hong Kong Wine and Dine Festival should encourage more local participation so as to attract non-local visitors to join the event. Mr Paul TSE held a different view that HKTB should focus on promoting Hong Kong as a travel destination worldwide and its programme planning and expenditure should so reflect.

80. Mr Paul TSE welcomed HKTB's initiative to proactively communicate with the local tourism industry and to deepen its partnership and expand collaboration with the local industry partners. Mr James TIEN of HKTB responded that HKTB had been collaborating with local trade all along with Hong Kong receiving travel agents assisting HKTB in promoting tourism within the territory and in the Mainland.

81. Referring to the Swarovski Christmas tree displayed at the Statue Square during December 2010, Mr Vincent FANG preferred the use of a real tree as it elicited a more festive mood. The Chairman commented that the Swarovski Christmas tree looked more like a stack of panels during the day but at night it did look attractive. Mr James TIEN of HKTB concurred but added that the tree was Hong Kong's tallest outdoor crystal Christmas tree, making it the major highlight of the HKTB's winter promotion Hong Kong WinterFest.

Proposed marketing budget and cost management

82. In response to Mr Ronny TONG's enquiry about HKTB's proposed marketing budget for 2011-2012, Mr James TIEN of HKTB clarified that "short-haul market" referred to South-East Asia, Korea and Japan except the Mainland, while "long-haul market" referred to all other places including The Americas, Europe and Australia. As such, there was no overlapping in the proposed marketing budget.

83. Noting the decrease of Head Office expenditure from \$178.3 million in 2010-2011 to the proposed \$149.2 million in 2011-2012, Mr Ronny TONG urged HKTB to consider streamlining the operation of the Head Office so that more resources could be re-deployed for market investment.

84. Sharing similar views, Mr Paul TSE considered that expenditure of Head Office and Worldwide Offices should be further reduced. In light of the Internet age, the promotion of Hong Kong tourism industry could be done via Facebook or Twitter so as to reduce the cost of setting up physical offices

overseas. Mr TSE urged HKTB to consider leveraging the network of the trade overseas instead of deploying a representative to station there. Ms Miriam LAU also asked HKTB to consider employing digital marketing for its promotional activities, such as posting videos to induce conversations and encourage viral sharing.

HKTB

85. Mr James TIEN of HKTB remarked that HKTB had strived to control the fixed cost of its Worldwide Office which included staff cost and office rents. For example, for emerging source markets, HKTB would first appoint representatives to facilitate communications with the travel trade, media and consumers and consider establishing HKTB offices when the market became more mature. Mr Anthony LAU of HKTB added that HKTB had adopted a prudent approach in investing in marketing resources and vigorously controlled cost. In particular, the increase of operating cost of HKTB was much less than the inflation rate for the past few years. Mr Ronny TONG requested HKTB to provide breakdown of the proposed budget allocated for the Head Office, including number of and expenditure for HKTB's worldwide offices and representative offices, and to advise the cost-effectiveness in deploying such resources.

Overnight stay and hotel supply

86. In light of the increasing number of visitors from the Mainland, Ms Miriam LAU urged HKTB to enhance its marketing effort in the Mainland such that visitors who normally travelled on one-day journey would consider spending more time in Hong Kong. Mr Anthony LAU, Executive Director of HKTB, responded that HKTB had deployed different market strategies in the Mainland. In Southern China, HKTB had been promoting "one-day tour" by enhancing awareness of the latest IVS arrangements among residents there. For non-Southern China region, HKTB had also put in resources to promote Quality and Honest tours.

87. Noting that there was an increasing number of Mainland visitors who opted for one-day travel with the implementation of IVS, Mr CHAN Kam-lam enquired about ways of converting these day visitors into overnight tourists. However, in view that the number of new hotel rooms did not catch up with the increasing number of tourists visiting Hong Kong and the territory was well short of hotel rooms, he enquired about the overall planning of hotel supply in the coming years, and the derivation of 3.6 nights as the average length of stay among overnight visitors in 2010.

88. Mr James TIEN of HKTB remarked that there were insufficient hotel rooms within the territory especially during peak seasons, leaving visitors no other choices but to go to Shenzhen for accommodation. He expressed worry that such might become a hindrance causing visitors not to come to

Hong Kong. As regards overnight stay, Mr TIEN responded that the overnight visitors from both the Mainland and the long-haul markets made the longest stay at 3.9 nights. Visitors who opted for longer stay could possibly be due to the tourism appeal of the territory and the successful promotion strategies of the local industry players. He expressed confidence that the average length of stay of 3.6 nights would be maintained for the coming year. Mr TIEN further commented that per capita spending of same-day, in-town visitors was in the region of \$1,700 and the economic benefit generated by them should not be neglected.

89. As regards hotel supply, C for Tourism replied that as at the end of 2010, there were 176 hotels in Hong Kong supplying about 60 000 rooms. By 2016, it was projected that there would be 233 hotels supplying some 70 000 rooms. Over the past five years, the number of hotel rooms increased by about 40%, many of these were in the middle-price range. Furthermore, a number of sites had already been earmarked for hotel development in the land sale application list. The Administration had also introduced measures to convert historic or industrial buildings into hotels. C for Tourism undertook to continue to liaise with other bureaux and the travel trade to monitor the supply of hotel rooms.

Conclusion

90. Mr James TIEN of HKTb presented a video of the HKTb's promotion work through the partnership with global and regional TV networks in overseas markets.

91. Summing up, the Chairman commended the increase of visitor arrivals for the past year, and urged HKTb to take note of the movements in exchange rates which had great impact on tourism, to expand geographic coverage in emerging markets, and to host mega events to attract more visitors to Hong Kong.

VIII Arrangement for re-allocation of berths in public cargo working areas (PCWAs)

(LC Paper No. CB(1)1090/10-11(11) - Administration's paper on arrangement for re-allocation of berths in public cargo working areas

LC Paper No. CB(1)1090/10-11(12) - Paper on re-allocation of berths in Public Cargo Working Areas prepared by the Legislative

Briefing by the Administration

92. At the invitation of the Chairman, the Under Secretary for Transport and Housing (USTH) briefed members on the tendering arrangement for re-allocating the Public Cargo Working Area (PCWA) berths upon the expiry of the existing Berth Licence Agreements (BLAs) on 31 July 2011 as set out in its paper (LC Paper No. CB(1)1090/10-11(11)). In gist, the Administration would continue to adopt open tendering for the two PCWAs on Hong Kong Island (i.e. Chai Wan and Western District PCWAs) and restricted tendering for the four PCWAs in Kowloon and the New Territories (i.e. New Yaumatei, Stonecutters Island, Rambler Channel and Tuen Mun PCWAs) for incumbent operators of the respective PCWAs and affected operators at Kwun Tong (KT) and Cha Kwo Ling (CKL) PCWAs due to their planned closure. To meet the demand for berths which would allow the handling of dirty cargoes, the Administration intended to set aside a few more such berths at the Rambler Channel PCWA. The Marine Department (MD) had consulted the PCWA operators on arrangements for the upcoming tendering exercise in accordance with the established practice, and the proposed arrangements were in line with the recommendations of the Public Accounts Committee (PAC). The Administration had also taken into account the differing views of the PCWA operators, the supply and demand situation of berths after the closure of KT and CKL PCWAs, as well as the overall stability of PCWA operation in devising the arrangements. The Administration planned to proceed with the necessary tendering arrangements as soon as practicable to facilitate a smooth transition to the new BLAs.

Presentation by the deputations

93. The Chairman welcomed deputations attending the meeting and invited them to present their views.

Hong Kong Recycle Materials & Re-production Business General Association Limited (RMRBGAL) (LC Paper No. CB(1)1151/10-11(03))

94. Mr LIU Yiu-shing, Vice President, RMRBGAL said that the Administration's policy on re-allocation of berths in PCWAs had been problematic. Notwithstanding that KT PCWA would be closed down after the expiry of the current BLAs on 31 July 2011, the Administration had yet to provide proper arrangement to re-locate waste paper recyclers at KT PCWA to another PCWA. In 2006-2007, the Administration had undertaken to re-locate the affected waste paper recyclers to the construction site of the

Trunk Road T2, but such plan had somehow been cancelled in December 2010. As the waste paper recycling industry was "defined" as dirty cargo industry, Mr LIU commented that if they wished to continue operation in the Kowloon area, they were only eligible to submit tenders for some 400 metres of berths at the Rambler Channel PCWA. He said that RMRBGAL had all along been supportive of the Government's initiative to reduce waste for a more sustainable future, but MD had not provided assistance to re-locate the waste paper recyclers. Mr LIU hoped to gain support from the Administration, with Panel members and the public giving them credit for the environmental work they had all along been doing.

Joint Alliance of PCWA operators (JAPO) (LC Paper No. CB(1)1151/10-11(02))

95. Mr WONG Yiu-kan, Convenor, JAPO took members through JAPO's submission and urged the Administration to adopt restricted tendering for the berths in all six PCWAs as open tender had driven some existing PCWA operators out of business. They also opposed to the proposed increase of number of berths which would allow the handling of dirty cargoes in Rambler Channel PCWA, and suggested to explore new venue(s) in East Kowloon to accommodate operators affected by the closure of KT and CKL PCWAs. JAPO also requested that the new BLA should run for a term of more than three years to facilitate the long-term development of PCWAs.

Discussion

Relocation of waster paper recyclers at KT PCWA

96. As the decommissioning of KT and CKL PCWAs was a policy decision to facilitate the future development of the district, Mr CHAN Kam-lam considered that the Government had a responsibility to re-provision the waste paper recyclers who, under the proposed arrangements, could only submit tenders for a limited number of berths which allowed the handling of dirty cargoes. Mr CHAN urged the Administration to support the work of the waster paper recyclers and consider allowing only those operators who handled dirty cargoes to make bids for such berths.

97. Highlighting that he had been involved in a related case handled by the Complaints Division of the Legislative Council Secretariat, Mr Vincent FANG expressed grave concern that the way which the Administration handled the issue was bureaucratic. The waster paper recyclers supported the Government policy's and were prepared to be re-located but ended up being told that there were not enough berths in Kowloon and the New Territories to accommodate them all. He warned that discontinuation of the

operation of waste paper recyclers would aggravate the waste management problem at the landfills. Mr FANG considered the requests of the waste paper recyclers very reasonable and urged the Administration to address their concerns.

98. In response, USTH advised that the number of berths in Kowloon and the New Territories which allowed the handling of dirty cargoes was not sufficient to accommodate the incumbent operators after the closure of KT PCWA. The Administration had now devised arrangements so that they would have a fair opportunity to participate in the tendering exercise. This would also be in keeping with PAC's recommendation that the allocation of PCWA berths should be conducted in an open, fair and economically viable manner. USTH added that according to the Environment Bureau, there were no grounds to support the request of the 12 waste paper recyclers that they must operate together at the same location. As regards Mr CHAN Kam-lam's suggestion of allowing only those operators who handled dirty cargoes to bid for berths which would allow the handling of such cargoes, USTH said that the suggestion would limit the operational flexibility of operators as they could now handle both dirty and non-dirty cargoes at the berths concerned. Nevertheless, the Administration would continue to discuss with the operators to address their concerns.

99. Mr WONG Kwok-kin referred to the special ex-gratia re-housing packages provided to affected residents in Choi Yuen Tsuen due to the construction of the Hong Kong section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link project. He urged the Administration to uphold the same spirit and concede to the request of the waste paper recyclers by confining the bidding for berths which would allow the handling of dirty cargoes to those operators who handled such cargoes first before opening such berths to other existing operators to bid, and re-provisioning all the affected waste paper recyclers within the same PCWA. Mr WONG highlighted the contribution of the waste paper recycling industry, in particular the job opportunities they were offering for elderly who collected discarded cardboards and waste papers for a living, and urged the Administration to address the concerns raised by the waste paper recyclers.

100. USTH explained that PCWAs were public facilities at seafronts for various trades to handle cargoes. In addition to the waste paper recyclers, there were operators belonging to other trades operating at the PCWAs. Therefore, it was of paramount importance to ensure that the tendering would be conducted fairly. He advised that there would be sufficient berths for incumbent operators territory-wide even after the closure of KT and CKL PCWAs. When the current BLAs expired by the end of July 2011, the right for a certain operator to use a certain berth would also cease. To facilitate operators affected by the closure of KT and CLK PCWAs to continue to

operate, the Administration had implemented a voluntary relocation scheme to encourage them to re-locate to vacant berths in other PCWAs. About 40% of affected operators had already been re-located through the scheme. In view of the supply and demand situation, special arrangement would be made at the Rambler Channel PCWA to cater for the needs of operators who handled dirty cargoes.

101. Mr CHEONG Chick-cho, Member of JAPO commented that the proposed arrangement would be unfair to existing operators who handled non-dirty cargoes. Mr NG Wai-kwong, Member, JAPO refuted the Administration's claim with regard to the increase of number of berths which would allow the handling of dirty cargoes in the Rambler Channel PCWA as the Administration simply re-designated certain berths from handling non-dirty cargoes to also allow the handling of dirty ones. He understood that the development of south-east Kowloon would not commence within the next few years, and questioned the need to decommission KT and CKL PCWAs in July 2011.

102. Ms Emily LAU declared that she was the Deputy Chairman of the Business Facilitation Advisory Committee. She was keen to ensure a level-playing field for the operators and that the upcoming tendering exercise would indeed be conducted in a fair and equitable manner. As regards her concern whether certain industry could move into Rambler Channel PCWA in whole, USTH clarified that the right of using the berths would depend on whether the interested operators could successfully secure a berth through the bidding process.

103. Sharing similar concerns, Mr Ronny TONG pointed out that other countries had made conscious efforts to promote environmental protection initiatives and provided incentives for industries engaged in such initiatives. In light that the Government had an established policy to promote environmental protection, Mr TONG urged the Transport and Housing Bureau to liaise with the Environment Bureau to provide assistance to the affected waste paper recyclers, such as providing concessions and compensation, and increasing the number of berths at Rambler Channel PCWA to ensure their survival.

104. USTH re-iterated that the Administration needed to ensure that the allocation of PCWA berths was conducted fairly and equitably. The arrangements put forward had already taken into account views from bureaux/departments concerned and could balance the interests of the different parties. The request of the waste paper recyclers to be re-provisioned as a group to the same location would not be fair to other PCWA operators.

105. Mr LIU Yiu-shing of RMRBGAL clarified that the waste paper recycling industry operated on a regional basis in Kowloon and the New Territories. As there were not enough berths in these two regions for incumbent operators, Mr LIU said that the Administration might have misled the public by claiming that there were enough berths in the territory as a whole to re-provision the affected waste paper recyclers. He urged the Administration to allow only those operators who handled dirty cargoes to make bids for berths which would allow the handling of dirty cargoes.

106. As the Administration had planned about the closure of KT and CKL PCWAs some years ago, Ms Miriam LAU questioned why the Administration had failed to identify a suitable site to provide PCWA facilities to re-provision the affected waste paper recyclers. The Administration's current proposal of adding more berths in Rambler Channel PCWA was equivalent to, as she observed, taking berths away from the incumbent operators. Ms LAU further highlighted the difficulties faced by the waste paper recyclers for re-locating from Kowloon to Hong Kong Island as such move would cause much inconvenience to the trade and increase the transportation cost. She urged the Administration to identify suitable site(s) in Sai Kung or Tseung Kwan O for re-provisioning them. USTH responded that the Administration had reviewed water-front sites throughout the territory but could not identify any land which could be used for developing new PCWAs. He undertook to continue to liaise with the trade on their concerns.

107. Mr WONG Yiu-kan, Convenor, JAPO stressed that there was no increase in the overall length of PCWA berths. The Administration only shortened some of the berths at Rambler Channel PCWA and re-designated the remaining portion as berths which would allow the handling of dirty cargoes. In such cases, the berths after re-allocation might be too small to accommodate some of the vessels managed by existing PCWA operators. He urged the Administration to arrange new berths to facilitate operation of the trade. The Deputy Secretary (Transport)⁵ (DS(T)) advised that at present, there were three operators who handled dirty cargoes at Rambler Channel PCWA. To ensure that there would at least be sufficient berths which would allow the handling of dirty cargoes at the Rambler Channel PCWA for these operators and the 12 waste paper recyclers to bid, 15 dirty cargo berths would be needed at the Rambler Channel PCWA. Taking into account the geographical layout of the PCWA, its proximity to nearby residents, etc., the Administration therefore intended to set aside four more berths which would allow the handling of dirty cargoes. The Administration also planned to take the opportunity to realign the length of some berths thereat. This could help facilitate more operators (regardless of the types of cargoes handled) to remain in PCWAs in Kowloon and the New Territories, Nevertheless, the Administration could revisit the arrangements in view of

the latest feedback from the operators.

Views on open tendering

108. Mr CHAN Kam-lam expressed concern that restricted tendering would be more conducive to the continual operation of existing PCWA operators.

109. Mr CHEONG Chick-cho, Member of JAPO noted that 20% of the berths were awarded to the highest bidders in the open tender exercise for the PCWA berths at Western District and Chai Wan PCWAs in 2008, and incumbent operators who had been operating berths there for decades were as a result forced out of business. As such, Mr CHEONG urged the Administration to adopt restricted tendering and allow incumbent operators to bid for berths at their respective PCWAs before arranging them for open tendering.

110. Ms Emily LAU urged the Administration to review the views expressed by JAPO on the unsatisfactory experience in the open tender exercise in 2008.

111. Mr NG Wai-kwong, Member, JAPO remarked that since the implementation of open tendering in 2008, the number of PCWAs and operators had been decreasing with the increase in cost of securing the right of using PCWA berths. Mr NG expressed concern that MD had seldom paid heed to the concerns of the trade and often forcefully implemented its policy on the trade with little consultation. For example, it was unreasonable to request operators who had been operating in Kowloon to relocate to Chai Wan. He urged the Administration to consider the hardship faced by the operators and to extend the BLAs for another three years to allow time for resolving the problem in relocation of KT & CKL operators before discussing tendering arrangement for the upcoming BLAs.

112. USTH responded that the open tendering for the Chai Wan and Western District PCWAs in 2008 was conducted in accordance with PAC's recommendation. The closing down of businesses by some operators could be due to various factors, such as commercial viability. As PCWAs continued to play an important role in handling about 10% of of Hong Kong's total container throughput, USTH did not consider that the operation of PCWAs had been affected by the tendering arrangements.

113. Ms Miriam LAU commended the valuable contribution of PCWA operators to the development of the logistics industry in Hong Kong for their competitive pricing in handling cargoes across the seawall. She noted that there had been various developments in disposing berths in PCWAs since the

Director of Audit gave his recommendations in 1995, and observed that the existing arrangement of conducting a tendering exercise once every three years had caused much uncertainty among the trade and hindered its development. Ms LAU urged the Administration to consider lengthening the term of BLAs to beyond three years so as to prevent conglomerates from monopolizing PCWAs by submitting higher bids and pricing out small players. On the term of BLAs, USTH considered the present three-year term appropriate but undertook to consider comments from Panel members and operators expressed at the meeting.

114. Ms LAM Kam-yi, Member, JAPO said that the re-allocation of PCWA berths was related to the entire trade which, once displaced, would not be able to continue to serve Hong Kong. She suggested the Administration to allow the waste paper recyclers to continue their operation at KT PCWA until the issue of re-provisioning was resolved, to lengthen the term of BLAs from three years to five years and to adopt restricted tendering arrangement for all PCWA berths.

The way forward

115. Ms Starry LEE shared the concerns of the waste paper recyclers as well as those expressed by JAPO, and urged the Administration to make special arrangement in respect of site selection and assistance for the waste paper recyclers while seeking to address the many concerns raised by JAPO.

116. Ms Emily LAU also expressed concern that the waste paper recyclers might be forced to close down thus contradicting the Administration's initiatives in promoting environmental protection industries and preserving job opportunities.

117. Ir Dr Raymond HO remarked that recycling was an important initiative in the Administration's policy of management of municipal solid wastes, and asked the Administration to seriously consider the requests of the deputations and provide a solution for all parties. The Chairman further enquired about the urgency of conducting the tendering exercise and whether the term for new BLAs could be lengthened from three to five or longer years. He also urged the Administration to formulate a long-term development plan for PCWAs.

118. In response, USTH again drew members' attention that the request of the waste paper recyclers to be re-provisioned as a group would not be fair to other PCWA operators. In view that the current BLAs would expire by the end of July 2011, USTH remarked that there was limited time to work out the way forward as tendering, which could involve several rounds, would need to commence, say, in a few weeks' time and concluded prior to July 2011.

Nevertheless, the Administration would further review the issues raised by deputations such as re-allocation of berths at Rambler Channel PCWA and the term of BLAs. USTH undertook to continue to communicate with the trade on their concerns before conducting the next round of tender. DS(T) added that the Administration hoped to come up with a final package through further discussion with the trade in the coming two to three weeks, and proceed with the tendering exercise by the end of February so as to ensure that the new BLAs would be in place by 1 August 2011.

119. Ms Starry LEE agreed with Mr CHAN Kam-lam's suggestion for the Panel to continue discussion of the item as soon as practicable before the commencement of the upcoming tendering exercise. Meanwhile, she hoped that the Administration could work out a solution with the trade. Ir Dr Raymond HO and Ms Emily LAU concurred. Ms LAU suggested that the Secretary for the Environment and the deputations should be invited to attend the meeting. In view of the urgency of tendering exercise and concerns expressed by members and the trade, the Chairman suggested to continue the discussion on the item at the next Panel meeting on 28 February 2011. The Chairman requested the Administration to address the concerns raised by members and deputations at the meeting.

Admin

IX Any other business

120. There being no other business, the meeting ended at 1:10 pm.

Council Business Division 1
Legislative Council Secretariat
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