

立法會
Legislative Council

LC Paper No. CB(1)363/99-00
(These minutes have been
seen by the Administration)

Ref: CB1/BC/15/98/2

Bills Committee on Revenue Bill 1999

**Minutes of meeting held on
Thursday, 27 May 1999, at 4:30 pm
in Conference Room A of the Legislative Council Building**

Members present : Hon Margaret NG (Chairman)
Hon LEE Cheuk-yan
Hon Christine LOH
Hon CHAN Yuen-han
Hon CHAN Kam-lam
Hon SIN Chung-kai
Hon Andrew WONG Wang-fat, JP
Hon Mrs Miriam LAU Kin-ye, JP
Hon Andrew CHENG Kar-foo

Members absent : Hon Albert HO Chun-yan
Hon Eric LI Ka-cheung, JP
Hon Mrs Selina CHOW LIANG Shuk-ye, JP
Hon Ronald ARCULLI, JP

Public officers attending : Mr Martin GLASS
Deputy Secretary for the Treasury

Mr Kim SALKELD
Deputy Secretary for Planning, Environment &
Lands

Mr WONG Ho-sang
Commissioner of Inland Revenue

Miss Amy TSE
Principal Assistant Secretary for the Treasury

Miss Vivian SUM
Assistant Secretary for the Treasury

Mr Roy TANG
Principal Assistant Secretary for Transport

Mr Lawrence KWAN
Assistant Commissioner for Transport (Acting)

Mr Peter LUK
Principal Transport Officer
Transport Department

Mr LAI Pak-hay
Chief Superintendent Traffic, The Police

Mr Bryan CHAN
Principal Assistant Secretary for Financial Services

Mr Y Y CHU
Chief Assessor
Inland Revenue Department

Mr Thomas LI
Senior Assessor
Inland Revenue Department

Ms Sherman CHAN
Senior Assistant Law Draftsman
Department of Justice

Clerk in attendance : Miss Odelia LEUNG, Chief Assistant Secretary (1)1

Staff in attendance : Ms Bernice WONG, Assistant Legal Advisor 1

Mr KAU Kin-wah, Assistant Legal Advisor 6

Mrs Mary TANG, Senior Assistant Secretary (1)2

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Before proceeding with the discussion, members agreed to the following schedule of meetings -

sixth meeting : 8 June 1999 at 2:30 pm
seventh meeting : 15 June 1999 at 8:30 am
eight meeting : 17 June 1999 at 4:30 pm
ninth meeting : 24 June 1999 at 8:30 am

I Meeting with the Administration

Increase of fixed penalty for smoky vehicles

2. The Deputy Secretary for Planning, Environment and Lands (DS/PEL) briefed members on the short, medium and long term measures of the air quality programme as set out in Annex E to LC Paper No. CB(1)1377/98-99(02). He stressed that the Administration had pledged to introduce the relevant legislation to increase the fixed penalty for smoky vehicles in 1999-2000 LegCo session.

3. On the Chairman's enquiry about the reasons for postponing the introduction of a higher penalty for smoky vehicles to the next LegCo session, DSPEL said that the Administration's proposal of increasing the fixed penalty for smoky vehicles was linked to a wider programme. The Administration believed that a specific proposal to increase the weight of a particular fine should be dealt with as a separate exercise from the general adjustment of fines to maintain the real value previously set by the Legislature.

4. As regards Miss Christine LOH's proposed amendment to increase the fixed penalty for smoky vehicles to \$5,000, DS/PEL said that the Administration did have concerns about the level of penalty proposed. It believed that any proposed fine must be proportionate to the nature of the offence in relation to other fixed penalties and supported by the community. The level of further increases in the fixed penalty for smoky vehicles to be proposed by the Administration in the next LegCo session would take into account the views of all sectors of the community.

5. The Deputy Secretary for the Treasury (DS for Tsy) added that in the Budget for 1999-2000 the proposed increases in fixed penalties for traffic-related offences applied across the board and were in line with the cumulative inflation. It would be beyond the scope of the Budget proposals to deal with increases in fixed penalty on top of inflation.

6. Miss Christine LOH said that since the Administration did not intend to propose sufficiently high level of fine for smoky vehicles, she would go ahead with her proposed amendment. In order to gauge public views on the issue, members agreed that representatives of the concern groups should be invited to attend the meeting on 15 June 1999.

Increase of on-street parking meter charges

7. Mr SIN Chung-kai said that the Democratic Party was concerned that the Administration's proposal of doubling the parking meter charges would induce private car parks to increase their charges and therefore proposed to reduce the extent of increase by 50%.

8. On Mr Andrew WONG's enquiry about the contracting out arrangements for the management of metered parking, the Principal Transport Officer (PTO) said that the management of metered parking was contracted out by tender. Presently, a four-year contract had been signed with a private management company. The services provided included meter maintenance and collection of charges. The company collected charges on behalf of the Government. It would be remunerated with a certain amount of management fee as specified in the contract. The determination of the level of charges rested with the Government.

9. Mr CHENG Kar-foo was concerned that after the proposed increase in on-street parking charges, metered parking would be more expensive than off-street parking in some Government and private car parks. PTO said that the Government did not have a policy of maintaining on-street parking fees lower than off-street parking fees. The level of metered parking charges depended amongst other things on the availability of parking spaces in individual districts. The proposed increase was a revenue raising measure. It would also help achieving the objective of maintaining a 15% availability of metered parking spaces.

10. Mrs Miriam LAU said that the on-street parking charges in some overseas countries were higher than off-street parking charges because there was a need to ensure availability of metered parking spaces.

Increase of tunnel tolls

11. On Mr CHAN Kam-lam's enquiry on whether the Democratic Party considered it appropriate to raise tolls to achieve the purpose of traffic management, Mr SIN Chung-kai said that the Democratic Party believed that by increasing the Cross-Harbour Tunnel (CHT) tolls on a par with the Eastern Harbour Crossing (EHC), it would help divert traffic from CHT to EHC. Moreover, as the CHT tolls had not been revised since 1984, the Democratic Party considered it acceptable to introduce a mild increase from \$10 to \$15. The Democratic Party considered the extent of increase proposed by the Administration too great.

12. Mr CHAN Kam-lam said that the Democratic Party for the Betterment of Hong Kong would object to the proposed toll increase by the Democratic Party and the Administration since as a matter of principle, it was not appropriate to use tolls as a tool for traffic management. He considered that increase in tolls would not resolve the fundamental problem of uneven distribution of traffic

Action

flow of the three cross-harbour tunnels. In his view, construction costs of the Western Harbour Crossing (WHC) was unreasonably high. Unless the WHC toll of \$30 was reduced, its usage would remain low as compared to the CHT and EHC.

13. DS for Tsy reiterated the Government position that raising tunnel tolls was part of a package of revenue raising measures and it was not the intention of the Administration to deal with detailed policy issues in the context of the Bill. The Chairman said that it was difficult to separate policy and revenue issues.

14. In response to members' concerns about the uneven distribution of traffic flow of the three cross-harbour tunnels, the Principal Assistant Secretary for Transport (PAS/T) provided the following information -

(a) Tunnel	Daily traffic flow	Ratio of flow to designed capacity
CHT	120,000	150%
EHC	66,000	84%
WHC	38,000	32%

(b) The proposal by the Democratic Party to increase CHT toll for private vehicles to \$15 in line with the EHC toll would bring about further congestion at CHT as the public would be more inclined to use the more popular CHT if tolls were the same; and

(c) Although the proposed increase was not intended to be a traffic management measure, it would help divert traffic away from CHT, resulting in a higher usage of WHC and EHC. With increased revenue for WHC and EHC, the possibility of further increasing tunnel tolls would be diminished.

15. Members considered it difficult to accept that an increase of CHT toll to \$20 would help divert traffic but an increase to \$15 would worsen the situation. Members requested and the Administration agreed to assess the impact of the proposed increase on traffic flow.

16. On Mr LEE Cheuk-yan's enquiry about the estimated income generated and the expenditure incurred upon reversion of CHT to Government, PTO advised that the Administration expected the gross revenue from CHT to be about \$695 million per year. This figure already taken into account the proposed tunnel toll increases. The Administration had contracted out the management of CHT at a cost of \$145 million for two years, representing \$6.1 million per month. The amount had not taken into account the staff costs of Government officials in supervising the management of CHT.

17. Noting that there would be a substantial amount of additional revenue generated after the reversion of ownership of CHT to the Government, Mr LEE Cheuk-yan queried the need for an increase in tunnel tolls. DS for Tsy said that the toll increase was part of a package of revenue raising measures targeting at those who could afford it.

18. On Mr LEE Cheuk-yan's further enquiry about the mechanism of control over toll increases for EHC, PAS/T said that the New Hong Kong Tunnel Company Limited which operated EHC was guaranteed under the agreement signed with Government a reasonable but not excessive return. The company might demand an increase in tolls. If Government and the company could not reach an agreement on tolls charged, either party could make a submission of the question of the variation of tolls to arbitration under section 55(4) of the Eastern Harbour Crossing Ordinance, Cap. 215.

Stock borrowing and lending

19. The Commissioner of Inland Revenue (CIR) briefed members on the proposals announced in the 1999-2000 Budget to relax the requirement for the stamp duty relief scheme for stock borrowing and lending activities by highlighting the salient points of the Administration's paper which was circulated to members under Annex F to LC Paper No. CB(1)1318/98-99(04).

20. Mrs Miriam LAU said that she would like to reserve her position on the subject since she did not have sufficient time to go through the information provided by the Administration.

Deferred payment of stamp duty for agreement for sale of residential property

21. In response to members, CIR provided the following figures on property transactions involving corporate purchasers on and after 1 April 1999 -

<u>Period</u>	<u>Total number of corporate purchasers</u>	<u>Number of corporate purchasers applying for deferred stamp duty payment</u>
1 April to 31 April 1999	600	40
1 May to 26 May 1999	480	19

22. CIR said that these figures indicated that most corporate purchasers would prefer to settle stamp duty before completion of assignment. They were not ready to submit a banker's undertaking for the purpose of applying for deferred payment of stamp duty.

23. Mrs Miriam LAU said that the statistics provided by the Administration at

paragraph 7(a) and (b) of Annex A to LC Paper No. CB(1)1377/98-99(02) regarding the default of property dealing companies in their payment of additional stamp duty and profits tax were irrelevant to the issue under discussion.

24. CIR said that the Administration was concerned that the deferral arrangement, which could be up to a maximum of three years, might be abused by property speculators who could make use of shell companies to avoid the stamp duty liability. These companies could quickly distribute all available cash and assets soon after the sub-sale of the property. This would render any action taken by the Inland Revenue Department to recover the stamp duty on the confirmor agreement fruitless. The Administration, therefore, considered it necessary for the purpose of protecting revenue to require the submission of a banker's undertaking as security when a corporate purchaser submitted an agreement for deferred payment of stamp duty.

25. CIR further explained that under the existing law, it was not mandatory for conveyancing solicitors to ensure the stamping of all sub-sale agreements before proceeding with the conveyancing.

26. Mrs Miriam LAU said in response that conveyancing solicitors were obliged to ensure the stamping of all sale and purchase agreements since an unstamped agreement could not be used to prove good title. She would have great reservations about the introduction of the proposed requirement if this was based on the Administration's perception that conveyancing solicitors had been failing in ensuring the stamping of agreements for sale.

27. CIR said that for the past year, a number of solicitors had failed to discharge their responsibilities in ensuring stamp duty payment and some of them had even absconded. The Chairman was gravely concerned about CIR's allegation on practicing solicitors. CIR said that while he accepted that conveyancing solicitors would always ensure the stamping of sale and purchase agreements, there were practical difficulties in ensuring that all confirmor agreements were duly stamped in the case of a sequence of sub-sales.

28. Responding to Mrs Miriam LAU, Chief Assessor of the Inland Revenue Department said that it would be easier for the Administration to recover outstanding stamp duty from an individual than a shell company. With the dissolution of a shell company, there would be no way of recovering the outstanding stamp duty because the company had no assets. However, an individual's whereabouts could be traced and an individual's liability was unlimited. Taking into account all these factors, the Administration therefore considered it necessary to require the provision of a banker's undertaking by corporate purchasers to safeguard against any default in stamp duty payment.

29. Members agreed to -

Action

- (a) continue discussion on the deferral of stamp duty payment for agreement for sale of residential property and examine the Bill clause by clause at the meeting on 8 June 1999; and
- (b) meet deputations at the meeting on 15 June 1999 to discuss the proposal to increase the fixed penalty for smoky vehicles.

II Any other business

30. There being no other business, the meeting ended at 6:15 pm.

Legislative Council Secretariat

8 November 1999