

Checklist on the Cyberport project

In considering the financial arrangements and progress of the Cyberport project (the Project) **at the special meeting of the Panel on Information Technology and Broadcasting on 5 May 1999**, members expressed concern over a wide range of issues. The **main** deliberations are summarised below for members' easy reference.

(A) The decision making process

Members' views and concerns	Administration's response
1. Why was there no open tendering process before awarding Pacific Century Group (PCG) the Project?	The Administration had decided to develop the Cyberport project in conjunction with PCG in consideration of the company's expertise in information technology (IT) services, its ability to line up leading IT giants as anchor tenants of the Cyberport and its commitment to undertake the investment and risks. The Secretary for Information Technology and Broadcasting pointed out that going through the tendering procedures might delay the project by one years which would further disadvantage Hong Kong amidst rapid changes in the IT fields.
2. Was the time factor so important as to justify a special arrangement to deviate from the established practices?	According to the findings of Arthur Andersen Business Consulting (AABC), consultant engaged to assess the possible economic benefits to be brought about by a Cyberport project, most of the local participants felt that speed of implementing the Project was important. Overseas participants also felt that the current development timeline was reasonable.
3. Given that land was an important assets of the general public, the Government should put up for sale by auction or tender the land for ancillary residential development of	Apart from receiving the Cyberport portion at no cost, profits from the ancillary residential development would also be shared according to the respective capital contribution by both

the Cyberport project so as to secure the full market value of the land.	parties. This would safeguard public interests at large.
--	--

(B) Evaluation by Government's consultant

Members' views and concerns	Administration's response
1. The reason for not requiring the consultant commissioned by the Government for the Cyberport project to study how Hong Kong could compete with its Asian neighbours and the pros and cons of offering subsidy in order to enable the project to go ahead since it was apparent the project would not materialize if it were left entirely to the private sector.	<p>The consultant was commissioned to study the economic benefits arising from the development of a Cyberport in Hong Kong. With regard to the specific arrangements of the Cyberport project including its mode of implementation, it was outside the scope of the consultancy. (The Director of Administration had been requested to provide a set of information papers for Members of the Executive Council for discussion of the Cyberport project.</p> <p>The three cases had been selected as they represented three different modes of operation, namely private initiative, public initiative and joint venture. As for Hong Kong's regional competitors, they were unwilling to release the related information to Hong Kong.</p>

(C) Implementation details and considerations

Members' views and concerns	Administration's response
1. Positioning of Cyberport and how the development of it into a centre of professional talents could be ensured in the agreement with PCG.	It was wrong to assume that the development of local IT talents would rely on the Cyberport alone as local tertiary institutes also had an important role to play. Suitable facilities would be provided in the Cyberport to enable effective communication between tenants of the Cyberport and research centres at tertiary institutes. Further, Government had already formulated the Digital 21 Information Technology Strategy for promoting the use of IT in

	the years ahead.
2. To include suitable provisions in the respective tenancy agreements to the effect that tenants would be required to provide training for local employees so as to achieve the purpose of technology transfer in the course of development.	Proposal noted with reservation.
3. Whether the agreement with PCG would specify its undertakings as regards securing leading IT and information services companies to be anchor tenants of the Cyberport.	PCG had already fulfilled its undertakings by securing eight anchor tenants before announcement of the Project. Thereafter, another two anchor tenants had also signed the letters of intent. Moreover, PCG had committed to take up not less than 20% and not more than 50% of the total office space of the Cyberport.
4. The estimated total cost of \$5 billion for the construction of the Cyberport seemed to be on the high side. The Administration should examine the cost breakdown in details to guard against PCG profiteering from construction of the shared facilities.	Point noted and would be considered when finalising the relevant legal documents.
5. As the value of the land at the time of grant of development right to PCG would be Government's capital contribution to the Project for profit sharing purpose, the timing of the grant was important. How could Government safeguard its own interest in this regard? How would disagreement with PCG regarding the valuation of the land be settled ?	The valuation of the land would be determined by the Lands Department on the basis of land premium assessed at the time of grant of the development right. In considering the time required for the necessary statutory procedures, it was estimated that the development right for the residential portion would be granted in mid 2000 subject to the approval of the respective bodies. Should there be disagreement, an independent professional company would be engaged to do the valuation.
6. The announcement that Tricom Holdings Limited would become the listed flagship of PCG in Hong Kong had caused a sharp rise in its share prices, indicating PCG's ability to amass huge profits from the Project	PCG well understood that the Project could only go ahead with the funding proposal for constructing the relevant essential infrastructure endorsed by Finance Committee and the related rezoning proposal endorsed by the

<p>through business take-overs and other market activities. How could Government ensure that PCG would have long term commitment over the Cyberport project?</p>	<p>Town Planning Board. As such, PCG was only transferring its own property interests to Tricom Holdings Limited, not the development right for the Cyberport project per se. To allay such fears, members were referred to para 9(d) of the Administration's paper, which stated PCG might not assign or transfer its right to design, construct, develop and market the Cyberport to any person without the prior approval of Government except in the case of any assignment or transfer to a majority-owned subsidiary of PCG, and then this company would be subject to the same restrictions as PCG was in which event PCG would have to guarantee all the obligations assumed by such subsidiary.</p>
<p>7. Whether PCG was also restricted from transferring its shares, so that control of it might fall into the hand of another company.</p>	<p>The Administration had discussed the subject matter with PCG. If there was a significant change in the composition of the controlling shareholders of PCG, it would amount to a default on the part of PCG.</p>
<p>8. Whether the proposed sale of Government's equity interests in the Project would result in Government losing control over the Project.</p>	<p>Such equity interests in the Project only carried entitlement to profit sharing. The purchaser had no right to take part in the operation, development and management of the Cyberport project.</p>
<p>9. Whether the proposed entrustment of the construction works to PCG had deviated from the established practices.</p>	<p>There had been precedents in previous Public Works Subcommittee submissions.</p>

(D) Alternatives and proposals offered

<p>Members' views and concerns</p>	<p>Administration's response</p>
<p>1. The Government should put up for sale by auction or tender the Government's equity interests in the Project with the provision of a 15% to 20 % profit margin. In</p>	<p>Proposal noted and would be considered when drafting the relevant legal documents.</p>

<p>negotiating with PCG over the capital contribution by Government, the highest estimates of the land value should be adopted.</p>	
<p>2. The Cyberport should be affiliated to the Science Park as the latter should enjoy more support being Hong Kong's research and manufacturing base while the former only served to facilitate overseas companies' investment in Hong Kong?</p>	<p>The Science Park was under the purview of the Trade and Industry Bureau and the Industry Department and the Government was attaching much importance to it. In fact, it was the Government's intention that the Science Park and the Cyberport should supplement each other. Regarding the location of the Cyberport, Telegraph Bay had been selected because it was readily available for development and was close to Central and the future Teleport.</p>

(E) Other concerns

<p>Members' views and concerns</p>	<p>Administration's response</p>
<p>1. Whether the decision was final? How could LegCo Members ensure their views regarding the Project would be heeded?</p>	<p>It was the Administration's intention for the Project to go ahead as it would benefit Hong Kong's economy in the long run. Moreover, the Administration had seen to it that Government as well as Hong Kong's overall interests had been guaranteed in the deal. Apart from the relevant meetings of Public Works Subcommittee and Finance Committee, LegCo Members were free to express their views on the Project to the Administration at any time.</p>
<p>2. The grievances of a group of developers should be addressed.</p>	<p>The Administration had a meeting with the concerned developers on 3 May 1999. Whilst they had expressed concern about Government granting the development right for the Cyberport project to PCG, they were in support of the Cyberport project. They also found the proposed sale of Government's equity interests in the</p>

	Project reasonable.
3. Any secret deal or commitment in the course of persuading the developers to support the Cyberport project.	No secret deal or commitment whatsoever had been made.

(F) Actions required

Members' requests	Administration's response
1. That the full report of the consultancy study be provided.	Agreed but sensitive business information would be blackened.
2. That a copy of the agreement with PCG be provided.	The relevant legal documents were still being finalised. The Panel would be briefed of the main provisions of the agreement.
3. That a copy of the Administration's letter to the developers be provided.	Agreed.
4. That the minutes of the meeting with developers be provided.	The outcome of the meeting was simple. The developers would not object to the Administration saying that they supported the Cyberport when asked about the meeting outcome.
5. That a copy of the Administration's paper to ExCo be provided so as to give members a better understanding of the justification for such an apparent deviation from the established practices.	The Secretary for Information Technology and Broadcasting had no power to release such information. (The Director of Administration has been requested to provide a set of papers for Members of the ExCo for discussion of the Cyberport project.)
6. Estimates of the consultancy fees for the study.	To be provided by the Administration.
7. The lesson learnt in the development of the Cyberport project and the policy and future mechanism in handling similar development proposals from potential proponents.	Noted. The subject matter was under review.

Legislative Council Secretariat

10 May 1999