

立法會
Legislative Council

LC Paper No. CB(1) 948/99-00

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by the Administration)

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Panel on Trade and Industry

Minutes of meeting
held on Monday, 6 December 1999, at 2:30 pm
in Conference Room A of the Legislative Council Building

- Members present** : Hon CHAN Kam-lam (Chairman)
Hon Kenneth TING Woo-shou, JP (Deputy Chairman)
Hon James TIEN Pei-chun, JP
Hon Cyd HO Sau-lan
Dr Hon LUI Ming-wah, JP
Hon NG Leung-sing
Hon Mrs Selina CHOW LIANG Shuk-yee, JP
Hon MA Fung-kwok
Hon CHEUNG Man-kwong
Hon HUI Cheung-ching
Hon CHAN Kwok-keung
Hon SIN Chung-kai
Dr Hon Philip WONG Yu-hong
- Members absent** : Hon Fred LI Wah-ming, JP
Prof Hon NG Ching-fai
Hon Bernard CHAN
Hon Mrs Sophie LEUNG LAU Yau-fun, JP
- Public officers attending** : For Items IV and V

Mr Francis HO, JP
Director-General of Industry

Mr Bobby CHENG
Principal Assistant Secretary for Trade and Industry

For Item IV

Mr Kim Anthony SALKELD, JP
Deputy Secretary for Planning, Environment and Lands

For Item V

Mr Anthony R. WILSON
Project Director (Acting), Architectural Services Department

Mr CHAN Kwong-fai
Acting Assistant Director-General of Industry

Mr LI Ho-kin
Senior Architect, Architectural Services Department

For Item VI

Miss CHEUNG Siu-hing
Deputy Secretary for Trade and Industry

Mr Philip CHAN
Principal Assistant Secretary for Trade and Industry

Clerk in attendance : Ms LEUNG Siu-kum
Chief Assistant Secretary (1)4

Staff in attendance : Ms Connie SZETO
Senior Assistant Secretary (1)1

I Confirmation of minutes of previous meeting
(LC Paper No. CB(1)505/99-00)

The minutes of the meeting held on 1 November 1999 were confirmed.

II Information paper issued since last meeting
(LC Paper No. CB(1)468/99-00 - Information paper on the first meeting of the Mainland and Hong Kong Special Administrative Region Joint Commission on Commerce and Trade)

2. Members noted the captioned paper issued since last meeting.

III Date of the next meeting and items for discussion

(LC Paper No. CB(1)506/99-00(01)

LC Paper No. CB(1)506/99-00(02))

3. Members agreed that the next meeting would be held on Tuesday, 11 January 2000 at 2:30 pm to discuss the following -

- (a) Briefing by Heads of the Overseas Hong Kong Economic and Trade Offices;
- (b) China's accession to the World Trade Organisation; and
- (c) Outsourcing of computer services for the Intellectual Property Department.

IV Support to industry on environmental matters

(LC Paper No. CB(1)506/99-00(03)

4. Members generally opined that the Administration only concentrated on raising industries' awareness of environmental measures affecting their operation and assisting them to comply with requirements and regulations under environmental protection legislation. It had not taken the lead to promote the development of environmental industries, which could bring about new jobs and business opportunities.

5. Mr HUI Cheung-ching enquired whether the Administration had in place any measures to attract investment in environmental industries. Mr CHEUNG Man-kwong urged the Administration to devise a comprehensive policy for the promotion of environmental industries and set up a co-ordinating committee with participation of relevant bureaux and departments to follow up on the matter. He opined that the policy should include provision of economic incentives encouraging the production of green products and implementation of pollution prevention and control systems, as well as economic measures discouraging environmental unfriendly products and production processes. Dr LUI Ming-wah called on the Administration to assist in making available suitable environmental equipment and technologies for adoption by local small and medium enterprises so as to help reduce costs incurred for meeting pollution control requirements.

6. While concurring that a comprehensive policy for the promotion of environmental industries and better co-ordination among policy bureaux and departments were essential to the development of environmental industries in Hong Kong, the Director General of Industry (DG/I) pointed out that difficulties, such as high operating costs and intensive technological investment upfront, had reduced Hong Kong's competitiveness of the waste recovery and recycling industries in the region. He added that as a result of relocation of local manufacturing industry to the Mainland, there might not be sufficient demand to sustain a market for environmental equipment and technologies in Hong Kong.

Nonetheless, the Administration saw the potential for Hong Kong to develop professional environmental services, such as consultancy advice for cleaning up pollution, reducing the causes of environmental pollution etc. Besides the local market, Hong Kong companies could also explore the markets in South China and the region.

7. The Deputy Secretary for Planning, Environment and Lands (DS/PEL) said that rather than singling out “green industries”, the Administration’s objective was that all local industries should conduct their operations with due regard to minimizing pollution and conserving energy. On the regulation of pollution caused by industries, the Administration provided advice and assistance to industries for putting in place appropriate pollution control measures and equipment. In addition, recognizing that better management of waste would contribute to combating pollution, the Administration had set up the Waste Reduction Committee, bringing together departments, industries, green groups and academics to promote reduction, reuse and recycling of waste. The Committee was tasked to devise overall strategies for better management of waste, including encouraging and facilitating waste separation and delivery. While it might be unattractive to invest in waste recycling industries in Hong Kong due to the high operating costs involved, the Committee recognized that there was considerable potential for the development of the waste separation industry. As such, the Committee had been focusing on encouraging more effective separation of waste to facilitate transportation to overseas countries for recycling. The processes involved in waste separation and delivery could provide employment opportunities.

8. On Mr SIN Chung-kai’s suggestion of establishing an environmental industrial estate with facilities meeting the needs of the industry, DG/I said that companies investing in operations which introduced new products or processes and could not operate in normal multi-storey buildings could apply for land in the industrial estates at development costs. However, as waste collection and separation industry involved labour- and land-intensive processes, it might not be suitable for admission into the industrial estates. Moreover, two out of the three existing industrial estates in operation had already been fully occupied. DS/PEL added that the Environmental Protection Department was actively exploring the feasibility of using restored landfills for the operation of waste recycling and processing industries making use of waste gas emitted from the landfills as the source of fuel.

ID 9. In this connection, DG/I agreed to consider Mr Kenneth TING’s suggestion of providing suitable premises in existing industrial estates for operation of electroplating industry. He said that this issue was examined in the past and the major problem was the differences between the Administration and the industry on which party should bear the cost for installing essential facilities and services for the operation of the industry. DG/I said that theoretically pooling polluting industries at designated locations could facilitate their operation and reduce the nuisance caused to the public at large.

10. Pointing out that industrial enterprises in old industrial areas were facing a lot of restrictions in upgrading their facilities and processes in order to comply with new

environmental regulatory requirements, Mr James TIEN opined that it would be more cost-effective to relocate polluting industries and redevelop old industrial areas under urban renewal processes.

ID 11. In response, DG/I agreed that urban redevelopment of old industrial areas was essential in bringing about improvement in urban environment. As such, the Planning Department had completed a consultancy study on the feasibility of redeveloping old industrial areas in urban area a few years ago. Since urban renewal involved complicated issues which straddled over a number of bureaux and departments, DG/I agreed to co-ordinate with them with a view to providing an information paper on the subject for reference of the Panel.

12. On funding support, Mrs Selina CHOW referred to the paper that the Administration had only committed \$3 million under the Services Support Fund (SSF) to environmental-related projects while a commitment of \$113 million was made under the Industrial Support Fund (ISF) for various investments. She urged the Administration to take a more pro-active approach to assist the service industry in compliance with environmental legislation and in adoption of environmental technologies. She also stressed the need to assist enterprises in the catering and retailing industries since they were mainly small and medium enterprises without much resources.

ID 13. DG/I explained that given the shorter establishment history of SSF (only four projects had been funded so far) as compared with ISF, it was natural that the total commitment of ISF would be higher than SSF. On the other hand, due to the different nature of projects supported by the two funds, where ISF projects usually involved development of environmental equipment and technologies while SSF projects mainly concentrated on formulation of environmentally sustainable development strategies, the higher funding commitment of ISF was understandable. On the Administration's assistance to environmental-related projects for the service industry, DG/I advised that the ISF had funded a project for the food packaging industry. Furthermore, an amount of \$710,000 had been committed for the development of an efficient treatment and waste minimisation programme for the catering industry. In this connection, DG/I took note of Dr LUI Ming-wah's suggestion to explore the feasibility of funding projects for the development of environmental equipment and technologies to tackle pollution caused by the catering industry.

V Science Park at Pak Shek Kok - Phase One

(LC Paper No. CB(1) 506/99-00(04))

14. DG/I briefed members on the proposal to proceed with the construction works of phases 1a and 1b of the Science Park (the Park) project to provide, inter alia, 48,500 square metres (m²) gross floor area (GFA) of rental premises for research and development (R&D) activities, 4,000 m² GFA of leased residential accommodation,

parking facilities for about 610 cars, 5,730 m² GFA of ancillary facilities, and 64,800 m² of landscape and road facilities. He also informed that the Administration would seek approval of the Public Works Subcommittee for the proposal at its meeting to be held on 15 December 1999.

15. Mr NG Leung-sing queried whether the Administration's proposal to convert the 1.6 hectares of land in phase 1 of the project originally reserved for large corporations to construct their own premises into building rental premises was a result of inaccurate estimation of market demand on lettable space. He also enquired about whether the Administration had made reference to experience of similar science park facilities in the region when planning the Park.

16. In response, DG/I explained that phase 1 of the Park would occupy an area of eight hectares. The Planning Committee for the Science Park (the Planning Committee) when planning the project in 1996/1997 had visited science park facilities in Singapore, Japan and the United Kingdom. Overseas experience and that of local industrial estates indicated that there was demand from large corporations on lease land plot for building their own premises which could be designed to meet their own needs. The Planning Committee therefore decided to reserve 1.6 hectares of land for such purpose. However, in recent years, the majority of the potential anchor tenants who had expressed interest in the Park development indicated that they preferred renting premises for business operation on a long-term basis. The Administration recognized that the preference for companies not to invest in capital construction had become the global trend. To cater the needs of these companies and to enhance the competitiveness of the Park, the Administration therefore decided to offer a "build and lease" arrangement to the potential anchor tenants.

17. As regards market demand for rental premises in the Park, DG/I said that there had been encouraging responses from local and world-wide companies. Initial indication from potential anchor tenants was that the space requirements would be in the region of 35,000 m². That apart, the Park would also need to reserve readily available space for lease to small or medium tenants. Nevertheless, under the original planning only about 13,500 m² GFA would be provided as lettable space in phase 1a for tenants. It would therefore be necessary for the Administration to expedite phase 1b and to make use of the 1.6 hectares of reserved land plots to construct an additional of 35,000 m² GFA of rental premises to make up the short-fall in lettable space.

18. As about residential accommodation for lease, Mr CHEUNG Man-kwong and Mr SIN Chung-kai expressed reservation over the proposed provision of 4,000 m² GFA for this purpose in the Park. They were of the view that as senior management of overseas high-tech firms and researchers would prefer better quality accommodation outside the Park, the residential demand might turn out to be low. Noting that there were abundant vacant senior staff quarters at the Chinese University of Hong Kong (CUHK) which situated in the vicinity of the Park, they urged the Administration to explore the

feasibility of using these quarters to accommodate researchers/engineers working in the Park. Mr CHEUNG Man-kwong also queried the need to provide over 600 parking spaces in the Park since persons living within the Park would not need to drive to work.

19. DG/I said that the Planning Committee and the Board of Directors of the Provisional Science Park Company Limited (the Board) had thoroughly discussed the proposal for providing lease residential accommodation inside the Park. They were of the view that on-site accommodation would provide convenience to visiting researchers/engineers staying in the Park for a few months who usually working at odd hours when public transport was not readily available. Moreover, the availability of comprehensive facilities for tenants would be an important selling point of the Park and in line with the international norm in order to attract high-tech firms and researchers. Whilst no on-site residential accommodation was provided in the science park in Singapore due to the availability of abundant low density good quality residential accommodation in the close proximity to the park, the science park in Taiwan had provided a wide range of ancillary facilities inside the park for tenants including good quality residential accommodation and schools. In addition, market surveys also indicated that there would be considerable demand for residential accommodation to be provided inside the Park. DG/I added that instead of constructing separate residential buildings, storeys of the multi purpose complex in phase 1a of the project would be designated for the purpose of residential accommodation. If demand for such accommodation turned out to be low, the premises could be easily converted to office uses.

20. On the feasibility of using vacant staff quarters at CUHK for accommodating visiting researchers/engineers, DG/I said that the Planning Committee and the Board had explored this option but considered it not viable since available vacant quarters were of very large sizes catering for big families which were not suitable for visiting researchers/engineers who, very often, were not accompanied by their families. Moreover, there was no direct access linking the CUHK quarters and the Park.

21. As regards the provision of parking spaces, DG/I said that it was necessary to provide parking facilities for convenience of employees working in the Park as the Park would not be easily accessible by public transport. He advised that a total of 800 car parks had been planned for phase 1 of the project of which about 610 spaces would be provided under phases 1a and 1b. Provision of the remaining 190 parking spaces would be kept under review to take into account the need of the tenants.

22. Dr LUI Ming-wah support the proposal to expedite the development of the project which would accelerate the development of technology-intensive and high value-added business activities in Hong Kong. He stressed the need to provide special facilities catering for high-technology industries in order to enhance competitiveness of the Park amidst other science parks in the region. On the provision of residential accommodation, he opined that there should be no problem on the demand for the proposed 4,000 m² GFA

of accommodation space which was only about 3.3% of the total GFA of phase 1 development of the Park.

23. Taking note of Dr LUI Ming-wah's views, DG/I advised that the multi-tenant buildings in the Park would be purpose-built with necessary technological and other special facilities catering for the needs of high-technology industries including information technology, electronics, biotechnology, and advanced scientific engineering.

VI Civil liability for unsafe products (LC Paper No. CB(1)506/99-00(05))

24. The Deputy Secretary for Trade and Industry (DS/TI) briefed members on the Administration's proposal to introduce a bill on civil liability for unsafe products. She explained that the proposed legislation, which based on the recommendations of the Law Reform Commission (LRC) after the public consultation conducted in 1997, would adopt the defect approach of strict product liability. The proposed legislation would enable consumers to take civil action against manufactures, producers, own-branders and importers, who would have principal liability, for loss or injury arising from the use of defective products. Major business associations would be consulted on the bill which was planned to be introduced into the Legislative Council in early 2000.

25. Mr Kenneth TING queried the need for the proposed legislation as there were already laws protecting consumers against unsafe products. He expressed worries that without a clear definition of "defective product", manufacturers and importers would be vulnerable to face legal charges even if they had complied with various product safety requirements and regulations stipulated under existing laws. Mrs Selina CHOW expressed grave concern about the approach of the proposed legislation. She further pointed out that the proposed law would have far-reaching implications on the business sector. Since no limit on compensation claims would be prescribed, there would be difficulty in assessing the amount of insurance coverage and the uncertainty might lead to increase in insurance premium. Mr HUI Cheung-ching enquired about the experience of other jurisdictions in implementing similar product liability legislation.

26. On the need to introduce the proposed legislation, DS/TI explained that existing legislation on product safety only provided for criminal liability to ensure products provided to consumers were reasonably safe. They did not automatically enable consumers adversely affected by unsafe or defective products to claim for compensation. Consumers had to sue the producers or retailers for breach of contract or for negligence. However, it was extremely difficult for consumers to establish their cases under laws of contract and negligence. Complicated and costly legal proceedings were often involved in the process which could be a formidable task for the general public. The proposed legislation would exist side by side with the laws of negligence and contract.

27. DS/TI said that, in general, a product which complied with the general safety requirements and regulations prescribed under existing product safety laws could be regarded as meeting the general safety standards expected by the public under the proposed legislation. However, as existing legislation did not cover all products in the market and safety standards differed for different goods, the Court still had to consider each litigation on a case-by-case basis in determining the producer's liability in respect of the defective product.

28. As to the concern about the strict product liability approach under the proposed law, DS/TI said that the approach was in line with that taken by Hong Kong's major trading partners, such as the European Union, the United Kingdom, Japan and Australia. Under the proposed legislation, a product would be considered defective when it did not provide the safety which the general public was entitled to expect. The onus of proof would be on the claimant. When determining whether a product was "defective", the Court would take into account all circumstances including the manner in which, and purposes for which, the product had been marketed, its packaging, the use of any mark in relation to the product and any instructions for, or warnings with respect of, doing or refraining from doing anything with or in relation to the product. Hence, unnecessary and frivolous litigation would be discouraged and the proposed law would not become a burden for manufacturers and producers.

29. DS/TI added that experience of other jurisdictions with similar product liability legislation indicated that the legislation had not led to proliferation of claims and there had been no adverse impact on insurance premium as demonstrated by the US system. Moreover, as goods manufactured in Hong Kong for export were already subject to similar product liability legislation of other countries, the proposed legislation would not add extra burden on local manufacturers and producers.

30. On concern about not prescribing a statutory limit on compensation to be sought, DS/TI said that given the diverse possible claims, any limit would be arbitrarily set and unable to satisfy the needs of all sectors.

31. Concerning the scope of coverage of the proposed legislation, Mr CHEUNG Man-kwong supported the LRC's recommendation to include unprocessed agricultural products (UAP) as these were consumed by almost every member of the public and there were recurrent problems of contaminated vegetables and seafood indicating the need to regulate these products. In order to facilitate implementation of the proposed legislation, he urged the Administration to establish a labeling and tracing system for UAP as soon as possible.

32. DS/TI took note of Mr CHEUNG Man-kwong's view and said that there were divided views internationally as to whether UAP should be subject to the product liability law. Whilst the LRC was in favour of covering these products in the proposed legislation, those in favour of not regulating UAP pointed out that the enforceability of the

proposed legislation would hinge very much on the implementation of a reliable labeling and tracing system for these products which at present was not available except for live pigs, poultry and live capture fish. The Administration recognized that if the proposed product liability law was to be enforced effectively, it would be necessary to put in place a proper system for tracing the origin of UAP and the relevant liable parties.

33. Members noted that the LRC was in favour of covering unprocessed natural products in the proposed legislation and enquired whether genetically modified food was regarded as “processed natural products”. DS/TI said that under existing product liability laws of other jurisdictions, “processed natural products” referred to those which had been subject to some industrial process. Examples were frozen food and canned food.

34. Responding to Mr MA Fung-kwok’s enquiry about the possible defences provided under the proposed legislation as detailed in paragraph 17 of the information paper, the Principal Assistant Secretary for Trade and Industry explained that item (a) generally referred to the situation where the manufacturer or producers had not supplied the product to the market. For instance, if a defective product was stolen from the producer, the latter could use this as a defence. Item (b) would be used as a possible defence if the defective product was provided otherwise than in the course of business, or otherwise than with a view to profit, such as making a donation to a third party. As for item (e), if the damage to the claimant was caused partly by his own fault, the manufacturer or producer liable would have a partial defence.

VII Any other business

35. There being no other business, the meeting ended at 4:35 pm.

Legislative Council Secretariat

11 February 2000