

立法會
Legislative Council

LC Paper No. CB(1)2198/10-11
(These minutes have been seen
by the Administration)

Ref : CB1/PL/EDEV/1

Panel on Economic Development

Minutes of meeting
held on Monday, 28 March 2011, at 10:45 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)
Hon CHAN Kam-lam, SBS, JP
Hon Miriam LAU Kin-ye, 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
Dr Hon LEUNG Ka-lau
Hon Mrs Regina IP LAU Suk-ye, GBS, JP
Hon Paul TSE Wai-chun
Dr Hon Samson TAM Wai-ho, JP
Hon Tanya CHAN
Hon Albert CHAN Wai-yip
- Member attending** : Hon WONG Kwok-hing, MH
- Members absent** : Dr Hon David LI Kwok-po, GBM, GBS, JP
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon Fred LI Wah-ming, SBS, JP
Hon IP Wai-ming, MH

Public officers attending : Agenda item IV

Mr Andrew H Y WONG, JP
Permanent Secretary for Commerce and Economic
Development (Commerce, Industry and Tourism)

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

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

Agenda item V

Mr Esmond LEE
Deputy Secretary for Transport and Housing
(Transport)

Mr Y K LEUNG
Deputy Director-General of Civil Aviation

Mrs Helen CHEUNG
Chief Treasury Accountant
Civil Aviation Department

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

Staff in attendance : Mr Timothy TSO
Assistant Legal Adviser 2

Miss Lilian MOK
Council Secretary (1)7

Ms Michelle NIEN
Legislative Assistant (1)6

I Confirmation of minutes of last meeting

(LC Paper No. CB(1)1650/10-11 - Minutes of meeting held on 24 January 2011)

The minutes of the meeting held on 24 January 2011 were confirmed.

II Information papers issued since last meeting

(LC Paper No. CB(1)1443/10-11(01) - Tables and graphs showing the import and retail prices of major oil products from February 2009 to January 2011 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)1657/10-11(01) - List of outstanding items for discussion

LC Paper No. CB(1)1657/10-11(02) - List of follow-up actions)

3. The Chairman advised that the Administration had proposed to discuss the following two items at the next Panel meeting scheduled for 19 April 2011 at 4:30pm:

- (a) Review of the regulatory regime of the Air Transport Licensing Authority for local airlines; and
- (b) Funding proposal for the construction of a station for the new weather radar of the Hong Kong Observatory (HKO).

4. With regard to item 3(b), the Chairman said that the discussion of the item would be deferred in case the Administration was not ready.

(Post-meeting note: On 11 April 2011, the Administration informed the Clerk that discussion on item 3(b) would be deferred to a later meeting.)

Radiation monitoring in Hong Kong after the Fukushima nuclear power plant incident in Japan

5. Having regard to the Fukushima nuclear power plant incident in Japan, Ms Emily LAU expressed concern about the radiation monitoring in Hong Kong and requested HKO to provide detailed information about their equipment and manpower deployment for measuring radiation, and public education on the latest assessment of radiation on local situations. Mrs Regina IP also considered it necessary to invite experts and academics to give a scientific account of the incident. Noting members' concerns, the Chairman agreed to liaise with the Administration on the matter.

(Post-meeting note: At the request of the Chairman, HKO has provided an information note (CB(1)1882/10- 11(01)) which has been circulated to Panel members on 12 April 2011.)

Construction of a third runway in the Hong Kong International Airport (HKIA)

6. With regard to the proposal of building a third runway in HKIA, Ms Emily LAU urged the Administration to expedite the construction of the third runway as its development would be of paramount importance to Hong Kong's economy and competitiveness. Ms Miriam LAU echoed that while many airports in neighbouring regions had built new runways, Hong Kong was relatively slow in this regard.

7. Declaring that he was a Board member of the Airport Authority Hong Kong (AA), Mr CHAN Kam-lam said that the AA would launch a public consultation shortly on "Hong Kong International Airport Master Plan 2030 Study" in which the feasibility of building a third runway would be examined.

8. Mrs Regina IP also commented that the Administration, instead of AA, should conduct a public consultation exercise on the subject matter in view of the substantial impact of the project on Hong Kong's economic development.

9. Noting that the item on "Hong Kong International Airport Master Plan 2030" had been scheduled for discussion in the first half of 2011, members requested the Administration to include the following information in the briefing:

- (a) different views on the development of the third runway;

- (b) financial arrangements;
- (c) environmental concerns; and
- (d) the effect of the third runway on economic development of Hong Kong, including its competitiveness as an aviation hub.

(Post-meeting note: Members' requests have been relayed to the Administration and added in the Panel's list of outstanding items for discussion.)

Implementation of the National Twelfth Five-year Plan

10. Ms Miriam LAU remarked that there were many opportunities for Hong Kong under the National Twelfth Five-year (12-5) Plan. She considered that Hong Kong should capitalize on its advantages to further enhance its positions as a shipping center and a logistics hub as well as developing the six industries. With a view to considering the way forward for Hong Kong's future development, Ms LAU requested the Administration to brief the Panel on the implementation of the 12-5 Plan in respect of logistics development.

11. The Chairman noted that an individual chapter was dedicated to the Hong Kong and Macao Special Administrative Regions in the 12-5 Plan, and undertook to liaise with the Panel on Commerce and Industry to see whether it would be feasible to jointly invite the Administration to give a briefing on the subject matter.

(Post-meeting note: With the concurrence of the Chairman, the item has been added in the Panel's list of outstanding item for discussion, and the Administration would brief the Panel when ready.)

Health status of senior Government officials

12. Mrs Regina IP referred to the sick leave of Mrs Rita LAU, Secretary for Commerce and Economic Development (SCED). She considered that the Government should inform the public about the health status of senior Government officials on prolonged sick leave and the duty assignments within the affected bureau.

(Post-meeting note: SCED has tendered her resignation on 8 April 2011.)

IV Outcome of Public Consultation on Proposed Legislative Amendments to Eradicate Pyramid Schemes

(LC Paper No. CB(1)1657/10-11(03) - Administration's paper on report on the outcome of public consultation on Proposed Legislative Amendments to eradicate Pyramid Schemes

LC Paper No. CB(1)1657/10-11(04) - Paper on review of Pyramid Selling Prohibition Ordinance prepared by the Legislative Council Secretariat (Background brief))

Briefing by the Administration

13. At the invitation of the Chairman, the Permanent Secretary for Commerce and Economic Development (Commerce, Industry and Tourism) (PSCIT) briefed members on the outcome of the public consultation on the proposed legislative amendments to eradicate pyramid schemes and the proposed way forward as set out in the Administration's paper (LC Paper No. CB(1)1657/10-11(03)). He advised that the Administration's proposals had received wide support from the public. He then outlined the major public views received on the main issues set out in the consultation exercise, including the proposed regulatory approach, revised definition of "pyramid scheme", and the proposals to uplift penalty and impose criminal liability on knowing participants.

14. On the proposed criminal liability for knowing participants, PSCIT clarified that the Economic Synergy supported the Administration's proposal detailed in the consultation document, i.e. any persons who induced or attempted to induce other persons to participate in a pyramid scheme, with the knowledge that the benefits they might get from joining the scheme were entirely or substantially derived from the introduction of further new participants, should be held criminally liable. PSCIT also advised that the Administration had started drafting an amendment bill (the Bill) to implement the proposed legislative amendments. The target was to introduce the Bill into the Legislative Council (LegCo) for scrutiny by the end of May 2011.

Discussion

Regulatory approach

15. Ms Starry LEE was pleased to note that a legislative timetable had been in place to eradicate pyramid schemes. She noted that the current regulatory approach in Hong Kong was that express legislative provisions were in place to prohibit pyramid schemes. She referred to a respondent's suggestion of establishing a specific licensing regime for multi-level marketing companies and also to Taiwan's regulatory regime under which "distorted multi-level selling activities" were prohibited, and asked whether the Administration would consider modelling on the practices in Taiwan and require multi-level marketing companies to meet record-filing requirements.

16. In response, PSCIT remarked that multi-level marketing was one form of business operations and was itself not objectionable. There was no sufficient ground to regulate the operation of companies undertaking such selling activities. The Administration therefore considered it more desirable to adopt the current approach of only prohibiting objectionable pyramid schemes but not all multi-level direct marketing schemes so as not to interfere with normal business activities.

17. The Deputy Secretary for Commerce and Economic Development (Commerce and Industry) supplemented that according to the Fair Trade Act and the Supervisory Regulations Governing Multi-Level Marketing Activities in Taiwan, there was a series of record-filing requirements concerning the operations of multi-level marketing schemes. Companies engaging in direct marketing activities had to report to the regulatory body details of their business such as the number of employees, the staffing structure of the company, the commission system, product origins and price levels. There were also other operational requirements, e.g. participants could not be asked to make payment exceeding a certain amount. The Administration considered that the current regulatory approach adopted in Hong Kong would not place undue regulatory burden on legitimate multi-level direct marketing schemes and should be maintained.

18. Mr WONG Ting-kwong considered it very difficult to differentiate between direct marketing schemes and pyramid schemes, as both involved the recruitment of new members into the scheme and the payment of benefits to members in the form of commissions. He asked how the Administration would enhance stakeholders' and the public's understanding of the differences between these two. While expressing support for the proposals, Mr Andrew LEUNG also urged the Administration to step up publicity and public education so that the public could differentiate legitimate marketing schemes from illicit pyramid schemes and unfair trade practices.

19. In response, PSCIT emphasized that legitimate direct marketing schemes were not the target of the proposed legislative amendments. He mentioned that during the public consultation, the Direct Selling Association of Hong Kong had expressed similar views that legitimate multi-level marketing operations should not be over-regulated. Although both types of schemes were layered in staffing structure, members in legitimate direct marketing schemes were mainly rewarded through selling goods or services rather than the mere introduction of new members. The Administration would step up publicity to enhance the awareness of the public about the matter.

Admin

20. Noting that there were already legislation, for example, the Theft Ordinance (Cap. 210) and the Securities and Futures Ordinance (Cap. 571) and the common law offence of conspiracy to defraud, Mr Paul TSE requested the Administration to advise whether the existing legislations were insufficient to deal with deception cases and to provide information on relevant case law examples in the past three years for reference. He also urged the Administration to consider licensing multi-level marketing scheme.

Revised definition of pyramid schemes

21. Mr WONG Kwok-hing said that many local residents and new immigrants from the Mainland had fallen prey to pyramid schemes. He was pleased to note that the Administration had finalized the legislative proposals to eradicate pyramid schemes after concluding the public consultation exercise. He also welcomed the revised definition of "pyramid scheme" which would make it clearer what constituted a "pyramid scheme". However, Mr WONG was under the impression that the current provisions of the Pyramid Selling Prohibition Ordinance (Cap. 355) (the Ordinance) focused more on "natural persons" who might set up companies to enter into pyramid selling contracts in the capacity of "legal persons" as a means to circumvent the law. PSCIT clarified that "legal persons" (such as companies) that engaged in pyramid schemes were already subject to the regulation of the current Ordinance and would continue to be the case under the proposed amendments.

22. Mr Albert CHAN said that he had received lots of requests for assistance in the past years from victims of pyramid schemes. Citing the details of some previous deception cases, he was concerned whether these cases could be dealt with after the definition of "pyramid scheme" was revised.

23. PSCIT explained that as indicated in the judgment handed down by the court in two cases involving alleged pyramid selling schemes, there were loopholes in the provisions of the Ordinance that had to be plugged. The

Administration therefore proposed to revise the definition of "pyramid scheme" to clarify that a scheme could be a pyramid scheme irrespective of whether it involved the sale of any goods or services. In response to Mr Andrew LEUNG's enquiry, PSCIT clarified that some of the cases cited by Mr Albert CHAN were related to unfair trade practices and not objectionable pyramid schemes. Mr Albert CHAN requested the Administration to provide case examples that would be covered under the revised definition in the LegCo Brief that would be issued when the Bill was introduced.

24. In reply to Mr CHAN's further enquiry, PSCIT remarked that establishing and inducing participants to join pyramid schemes would come under the purview of the Bill, irrespective of the platform on which the activities took place (e.g. the Internet).

25. Mr WONG Ting-kwong asked whether selling club membership to new participants would be considered to be engaging in pyramid activities. PSCIT reiterated that under the legislative proposals, "pyramid scheme" would be defined as a scheme in which new participants must make a payment and such a payment was entirely or substantially induced by the prospect of receiving a benefit "substantially" relating to the introduction of further new participants to the scheme. As the main benefit for persons joining clubs was the opportunity to use club facilities or enjoy club services and the benefit received from introducing new members was not the main motivation, those persons would unlikely be caught by the proposed amendments.

26. Noting the Administration's explanation, Mr Paul TSE considered it crucial to define "substantial benefit" since benefit received could be in various forms. He also expressed concern that soon after joining a marketing scheme, many participants received their income mainly from commissions derived from the recruitment of further new members. Until a more mature stage, these participants might receive more benefits from selling goods and/or services. Mr TSE requested the Administration to take this into account in the drafting stage. In response, PSCIT assured members that the Administration would be meticulous in defining "pyramid scheme".

27. Considering the structure and operation of direct marketing schemes closely similar to pyramid schemes, Ms Miriam LAU held the view that the revised definition of "pyramid scheme" should be made clear as much as possible such that the public could differentiate whether the scheme they had joined would be a lawful direct marketing scheme or an illegal pyramid scheme if the scheme involved income derived both from introducing new members and selling goods or services. She considered that quantifying "substantial benefit" would help the public differentiate the two types of

schemes.

28. Noting members' concerns about the revised definition of "pyramid schemes", PSCIT responded that it would not be desirable to set a threshold for income obtained from the introduction of new participants in the definition since it might be easily circumvented by unscrupulous operators. Nevertheless, the Administration would include in the legislation factors to be considered by the court in ascertaining the nature of the schemes in question, such as the relative emphasis placed on income derivable from recruiting members vis-à-vis selling goods or services when promoting the scheme and the reasonableness of the prices of goods or services sold.

Uplifted penalty

29. Noting that the maximum penalty for breaches of the Ordinance would be increased to a fine of \$1,000,000 and imprisonment of seven years, Mr WONG Kwok-hing sought clarification on whether persons convicted of setting up pyramid schemes would be restricted from being company directors in future to prevent them from establishing new companies and engaging in deception again.

30. In response, PSCIT said that the Companies Ordinance (Cap. 32) already contained general provisions disqualifying persons convicted of indictable offences who were also found to have acted fraudulently from becoming directors of companies.

31. Referring to the view of the Secretary for Labour and Welfare about the appreciable deterrent effect of making directors of companies liable for defaulting on employees' wages, Ms Emily LAU considered it effective to include an explicit provision in the amendment Bill stipulating that directors of companies involved in pyramid schemes would be held liable for such an offence. PSCIT pointed out that such provisions already existed in the current Ordinance. Under section 4(1) of the Ordinance, where an offence under the Ordinance had been committed by a body corporate, any person who was a director, secretary, principal officer or manager of that body corporate committed a like offence.

32. Referring to the Securities and Futures Ordinance (Cap. 571), Mr Ronny TONG was concerned that apart from making compensation to victims of pyramid schemes, whether the Administration would consider adding a provision in the Bill stipulating disgorgement of improperly gained money as part of the penalties.

33. PSCIT advised that as stipulated in section 5(1) of the Ordinance, "...

where a person is convicted of an offence under this Ordinance the court may [...] order the person so convicted to pay to any person who had suffered financial loss resulting from that offence, such amount as compensation as it thinks reasonable." That said, the Administration would carefully consider the suggestion of empowering the court to make disgorgement orders.

Criminal liability for knowing participants and directors of companies

34. Concerning the proposal that knowing participants should be subject to the same maximum penalty as was applicable to persons who established, advertised or managed pyramid scheme, Ms Emily LAU noted that three respondents and the Chinese Manufacturers' Association either did not agree to or had reservations over the Administration's proposals whilst the Law Society of Hong Kong considered the criminal liability of the knowing participants a policy matter and "innocent" participants might be inadvertently caught. She requested the Administration to consider carefully if persons who were ignorant of the true nature of the schemes in which they had participated would be held criminally liable.

35. PSCIT reiterated that under the proposals, participants in a pyramid scheme would commit an offence only if they induced or attempted to induce other persons to take part in that scheme, and had the knowledge that their income was substantially relating to recruiting further participants. In other words, "innocent" participants who did not have the knowledge would not be prosecuted under the legislation.

36. On this subject, Mr Paul TSE said that there were some participants who knew the true nature of the pyramid scheme when they first joined but subsequently became inactive. Under these circumstances, Mr TSE enquired whether these participants would be considered as taking part in the scheme knowingly and being culpable.

37. PSCIT remarked that according to the Administration's proposal, if any persons had the knowledge that the benefits they might get from joining the scheme were entirely or substantially derived from the introduction of further new participants and they had induced or attempted to induce other people to join, they would be held criminally liable.

38. While expressing support for the proposed amendments, the Chairman requested the Administration to review the use of the terms "knowingly" and "with knowledge" in order not to cause confusion among the public.

Legislative timetable and enforcement

39. Mr WONG Kwok-hing urged the Administration to introduce the proposed legislative amendments as early as possible preferably before the forthcoming summer vacation. Meanwhile, he called on the Administration to step up publicity and enforcement to combat pyramid schemes. Echoing the view, Mr WONG Ting-kwong also opined that more publicity and education for the industry and community alike would be required.

40. PSCIT assured members that before the proposed amendments became effective, the Administration would act on complaints and take enforcement actions in accordance with the existing legislation. Meanwhile, they would also continue their efforts in publicity to arouse public awareness of illicit pyramid activities.

Conclusion

41. Summing up, the Chairman remarked that Panel members were generally in support of the Administration's proposals. Nevertheless, the Administration should make references to the practices of other jurisdictions and step up publicity to heighten people's awareness of the illegal nature of the pyramid schemes. The Chairman also urged the Administration to take into consideration members' views expressed at the meeting, especially those related to the revised definition of "pyramid scheme".

42. PSCIT assured members that the Administration would take into account members' views in drafting the Bill and would exchange views further with members in the relevant Bills Committee.

V Proposed revision of fees and charges under Civil Aviation (Aircraft Noise) (Certification) Regulations (Cap 312A) and Hong Kong Air Navigation (Fees) Regulations (Cap 448D)

(LC Paper No. CB(1)1657/10-11(05) - Administration's paper on proposed revision of fees and charges under Civil Aviation (Aircraft Noise) (Certification) Regulations (Cap 312A) and Hong Kong Air Navigation (Fees) Regulations (Cap 448D))

Briefing by the Administration

43. At the invitation of the Chairman, the Deputy Secretary for Transport and Housing (Transport) (DSTH(T)) briefed members on the proposed

revisions of fees and charges under the Civil Aviation (Aircraft Noise) (Certification) Regulations (Cap 312A) and the Hong Kong Air Navigation (Fees) Regulations (Cap 448D). He pointed out that it was the Government's policy to set fees and charges at a level sufficient to recover the full cost of providing the services. The Civil Aviation Department (CAD) had reviewed the fees and charges and put forward proposed revisions to the fees and charges in five areas, including fee or maximum fee adjustments to achieve full cost recovery, streamlining the structure of the examination fees for the grant or renewal of flight crew licences, deletion of an obsolete fee item, new fee items and new provisions to charge for withdrawn or unsuccessful applications.

44. DSTH(T) further said that consultation with stakeholders on the proposals had been carried out in late 2010 and early 2011. The details of the proposals and stakeholders' views were set out in the Administration's paper. The Administration planned to submit the relevant legislative amendments to the Legislative Council (LegCo) in the second quarter of 2011 for the fee proposals to take effect in the fourth quarter of 2011.

Discussion

Maximum fee adjustments to achieve full cost recovery

45. Mr Albert CHAN said that the issue of a noise certificate to an aircraft seemed to suggest that the noise from it was considered not disturbing. As he understood, the noise level of an aircraft perceived by nearby residents would vary with a number of factors, for example, loading and flying height. As the Administration had set up aircraft noise monitoring stations, he enquired whether the costs arising from the operation of the stations had been reflected in the charges for granting the aircraft noise certificate.

46. The Deputy Director-General of Civil Aviation (DDGCA) explained that a noise certificate was issued to an aircraft landing or overflying Hong Kong in accordance with the noise certification standards adopted by the International Civil Aviation Organization. DDGCA further advised that the costs of aircraft noise monitoring stations were under a separate account. DSTH(T) clarified that under the user-pays principle, the fee of granting the aircraft noise certificate could only be set with a view to recovering the cost of processing the application.

47. Mr Albert CHAN was unconvinced. He requested the Administration to reflect the costs of running the aircraft noise monitoring stations in the fees of granting the certificate, otherwise, he would raise objection to the fee proposals at the negative vetting stage. Mr CHAN also

urged the Administration to specify local requirements to regulate aircraft noise. In this connection, Mr Paul TSE stressed that it was not desirable for Hong Kong to set out its own local standard as international aircraft entering Hong Kong might need to undergo modification works which might affect Hong Kong's position as an aviation hub.

48. Mr Paul TSE expressed concern that some of the proposed fee adjustments were considerable. For example, for Air Operator's Certificate (AOC), the maximum amount for heaviest aircraft type of not over 2 tonnes would be increased in three phases from \$7,000 to \$147,000 over a three-year period. He questioned the need for such drastic increase as it might undermine Hong Kong's competitiveness. Mr TSE said that some economies such as Singapore provided subsidies for the aviation industry to boost competitiveness.

49. Ms Miriam LAU noted that the proposed fees of some items were increased by a number of times. She was worried that the increase might then be passed on downstream and lead to a rise in air tickets and air cargo handling fee in particular. She considered that in setting the fees, CAD should not purely seek to achieve full cost recovery but aim for maintaining Hong Kong's competitive edge in logistics development in view of the development of neighboring airports. Ms Emily LAU also noted that some stakeholders had expressed concern on the significant percentage increases of fees proposed for certain items.

50. DSTH(T) explained that in the case of the fee for the grant or variation of an AOC, CAD was empowered under the existing legislation to recover the full cost of providing the services, subject to a maximum amount, which was made up of various components such as a rate for each 1 000 passenger kilometres flown, a rate for each 1 000 freight tonne kilometers flown. As the full cost of providing the services for some small airlines exceeded the maximum amount, CAD could only recover the cost up to the maximum amount, resulting in under-recovery. CAD therefore proposed to increase the components of the maximum amount in phases over three years. Such a proposal would not affect those airlines which had been paying the full cost. At the same time, the reduction in the fee for the renewal of a Certificate of Airworthiness (COA) would result in savings ranging from \$0.1 million to \$6 million per annum for these operators. Regarding the other AOC holders which were not currently paying the full cost of investigation, they would be affected by the proposal but partly offset by a reduction in the fee for COA renewal. As compared with the existing fees, it was estimated that these operators would pay an additional amount of \$0.6 million to \$1 million in the third year. In reply to Ms Miriam LAU's concern, DSTH(T) said that the levels of air cargo handling fees were set by the airlines based on

commercial decisions. Mr WONG Ting-kwong considered that the Administration should have set out the formula in calculating the maximum fees to facilitate members' understanding.

51. Mr Paul TSE expressed concern that the fee proposals would have a greater impact on the small airlines and undermine their competitiveness with large airlines. He also queried whether the upward adjustments of CAD fees were made in response to increases in charges levied by AA.

52. DSTH(T) advised that CAD would regularly review its work procedures with a view to reducing the cost of their services. Regardless of the size of the airlines, CAD adjusted its fees and charges with a view to recovering the cost of providing the services.

New fee items

53. Mr Ronny TONG referred to CAD's proposal to introduce 19 fee items and noted that the proposed rates for some of them were very high, such as Approval of Courses of Flight Training or Instruction with the proposed maximum rate at \$1,033,700. He enquired whether these services were being provided free of charge at present or these were new services.

54. DDGCA informed members that flight training courses had previously been provided in-house by the airlines, and the costs of approving the courses were subsumed under the AOC fees in the past. In the past decade, the airlines had contracted out flight training services to independent third-party organizations and therefore CAD could not recover the costs direct from these third-party organizations. Given this development, CAD proposed to take out the cost item from AOC fees and make it a standalone fee item. It was expected that the independent training organizations which were subject to the new fee would pass on the costs to the airlines to whom they provided the flight training services. Mr WONG Ting-kwong expressed dissatisfaction about the presentation of the Administration's paper (CB(1)1657/10-11(05)) and considered that the Administration's explanation and clarification above should have been covered in the paper to avoid confusion.

Competitiveness of Hong Kong's aviation industry

55. Ms Emily LAU asked whether the fees levied by CAD were comparable to those charged by neighbouring airports. She was keen to ensure that the Government's aviation policy would facilitate the conduct of business in Hong Kong and the fee proposals would not undermine the competitiveness of Hong Kong's aviation industry.

56. DSTH(T) assured members that airport charges in Hong Kong were very competitive. He pointed out that the current proposals concerned CAD's fees and charges which were different from the airport charges. DDGCA added that the fees and charges set by the Civil Aviation Administration of China (CAAC) applied to aircraft landing or overflying all airports in the Mainland. While direct comparison with the fees and charges of CAAC or other civil aviation authorities was not possible due to different costing structures, those of the UK were relatively high. Ms Emily LAU requested the Administration to compare the proposed fees and charges with those levied by the civil aviation authorities in the Mainland, Singapore and South Korea, and provide the relevant information for members' reference.

57. As regards the competitiveness of Hong Kong's aviation industry, DSTH(T) remarked that it was not solely dependent upon the fees and charges levied by CAD but also on the airport infrastructure, airport charges and the aviation policy. He highlighted that AA was pursuing the midfield expansion project which sought to maximize the use of the two runways and increase the handling capacity of HKIA. Phase 1 of the project was expected to be completed in mid 2015. Mr WONG Ting-kwong expressed concern that HKIA was facing direct competition from Guangzhou, Shenzhen, Zhuhai and Macau airports. He was worried that Hong Kong's competitive edge in air cargo services would gradually be eroded upon the completion of Hong Kong-Zhuhai-Macau Bridge as road access to these airports would take less than an hour.

58. The Chairman requested the Administration to address whether the fee proposals would undermine Hong Kong's competitiveness as an aviation hub in the region by providing relevant information on the possible impact of the fee proposals on the local airlines, air passengers and air cargo industry.

59. Ms Emily LAU requested the Transport and Housing Bureau to brief the Panel on the impact brought by the third runway to Hong Kong's economy. DSTH(T) responded that the issue of airport developments, including the third runway, would be covered under the HKIA Master Plan 2030, on which AA aimed to begin the public consultation in the second quarter of 2011. AA was making the preparations for this consultation exercise. He would liaise with the LegCo Secretariat as soon as possible after the timeline for the consultation exercise was confirmed.

Conclusion

60. The Chairman concluded that members had reservation on the proposed revisions of fees and charges noting that Hong Kong's advantage

might be weakened as the extra costs might be passed on to the consumers. He urged the Administration to provide the requested information to the Panel as soon as practicable. Ms Miriam LAU requested the Administration to provide the said information before submitting the proposed legislative amendments to the Council.

61. DSTH(T) advised that the Administration planned to submit the relevant legislative amendments to the Council in the second quarter of 2011. He agreed to take into account members' views expressed at the meeting and provide further information for members' reference shortly.

VI Any other business

62. There being no other business, the meeting ended at 12:47 pm.

Council Business Division 1
Legislative Council Secretariat
17 May 2011