

立法會
Legislative Council

LC Paper No. CB(1)418/12-13
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by the Administration)

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Panel on Economic Development

Minutes of meeting
held on Monday, 26 November 2012, at 9:00 am
in Conference Room 1 of the Legislative Council Complex

Members present : Hon Jeffrey LAM Kin-fung, GBS, JP (Chairman)
Hon CHUNG Kwok-pan (Deputy Chairman)
Hon Andrew LEUNG Kwan-yuen, GBS, JP
Hon WONG Ting-kwong, SBS, JP
Hon Ronny TONG Ka-wah, SC
Dr Hon LEUNG Ka-lau
Hon Paul TSE Wai-chun, JP
Hon Michael TIEN Puk-sun, BBS, JP
Hon James TIEN Pei-chun, GBS, JP
Hon Frankie YICK Chi-ming
Hon WU Chi-wai, MH
Hon YIU Si-wing
Hon CHAN Han-pan
Hon Christopher CHEUNG Wah-fung, JP
Dr Hon Fernando CHEUNG Chiu-hung
Hon SIN Chung-kai, SBS, JP
Dr Hon Elizabeth QUAT, JP
Hon TANG Ka-piu

Members absent : Hon Albert CHAN Wai-yip
Hon Dennis KWOK

Members attending : Hon WONG Kwok-hing, MH
Hon Cyd HO Sau-lan
Hon Starry LEE Wai-king, JP
Hon LEUNG Kwok-hung

Hon Gary FAN Kwok-wai
Hon MA Fung-kwok, SBS, JP
Hon Charles Peter MOK
Dr Hon Kenneth CHAN Ka-lok
Ir Dr Hon LO Wai-kwok, BBS, MH, JP

**Public officers
attending**

: Agenda Item IV

Mr WONG Kam-sing
Secretary for the Environment

Ms Christine LOH
Under Secretary for the Environment

Miss Vivian LAU
Deputy Secretary for the Environment

Mr Donald NG
Principal Assistant Secretary for the
Environment (Energy)

Ms Vyora YAU
Principal Assistant Secretary for the
Environment (Financial Monitoring)

Agenda Item V

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

Mr WONG Yiu-cheung
Acting Head of Trade Controls of the Customs
and Excise Department

Dr Albert AU Ka-wing
Senior Medical and Health Officer of the
Department of Health (Environmental Health
and Toxicovigilance)

Agenda Item VI

Mr YAU Shing-mu
Under Secretary for Transport and Housing

Ms Julina CHAN
Deputy Secretary for Transport and Housing
(Transport)

Ms Jenny CHAN
Principal Assistant Secretary for Transport and
Housing (Transport)

Mr CHUNG Siu-man
Assistant Director/ Port Control
Marine Department

Mr LAI Chi-tung
General Manager/ Vessel Traffic Services
Marine Department

Clerk in attendance : Mr Derek LO
Chief Council Secretary (1)5

Staff in attendance : Mr Noel SUNG
Senior Council Secretary (1)5

Ms Michelle NIEN
Legislative Assistant (1)5

Action

- I Confirmation of minutes of meeting**
(LC Paper No. CB(1)178/12-13 —Minutes of meeting held on 16
October 2012)

The minutes of the meeting held on 16 October 2012 were confirmed.

- II Information papers issued since the last regular meeting on 11 July
2012**
(LC Paper No. CB(1)2431/11-12(01) —Administration's paper on tables
and graphs showing the import
and retail prices of major oil
products from July 2010 to June
2012)

- LC Paper No. CB(1)2515/11-12(01) —Administration's paper on tables and graphs showing the import and retail prices of major oil products from August 2010 to July 2012
- LC Paper No. CB(1)2586/11-12(01) —Submission from the Hong Kong Franchisee Association
- LC Paper No. CB(1)28/12-13(01) —Administration's paper on tables and graphs showing the import and retail prices of major oil products from September 2010 to August 2012
- LC Paper No. CB(1)102/12-13(01) —Administration's information note on the development of a new cruise terminal at Kai Tak
- LC Paper No. CB(1)117/12-13(01) —Administration's paper on tables and graphs showing the import and retail prices of major oil products from October 2010 to September 2012)

2. Members noted the information papers issued since the last regular meeting on 11 July 2012.

III Items for discussion at the next meeting

- (LC Paper No. CB(1)189/12-13(01) —List of outstanding items for discussion
LC Paper No. CB(1)189/12-13(02) —List of follow-up actions)

3. Members agreed to discuss the following items proposed by the Administration at the next regular meeting to be held on 11 December 2012 –

- (a) Draft guidelines and other enforcement matters in respect of the fair trading provisions in the Trade Descriptions Ordinance (Cap. 362);
- (b) Proposed creation of a permanent post of Judge of Court of First Instance (JSPS Point 16), and a permanent post of Deputy Registrar, High Court (JSPS Point 13); and
- (c) Annual Tariff Reviews with the two power companies.

(Post-meeting Note: Members were informed vide LC Paper No. CB(1)240/12-12 on 30 November 2012 that at the request of the Administration and with the concurrence of the Panel Chairman, the item

"Implementation of the Maritime Labour Convention 2006 in Hong Kong" had been added to the agenda of the meeting on 11 December 2012.)

IV Scheme of Control Agreements with the two power companies — Interim Review in 2013

(LC Paper No. CB(1)189/12-13(03) —Administration's paper on the Scheme of Control Agreements with the two power companies interim review in 2013

LC Paper No. CB(1)189/12-13(04) —Paper on Scheme of Control Agreements with the power companies prepared by the Legislative Council Secretariat (background brief)

LC Paper No. CB(1)169/12-13(01) —Submission on the Scheme of Control Agreements 2013 Mid-term Review from a deputation (反核之眾(聯盟)) dated 13 November 2012

LC Paper No. CB(1)201/12-13(01) —Administration's response to the submission on the Scheme of Control Agreements 2013 Mid-term Review from a deputation (反核之眾(聯盟)) dated 13 November 2012 (LC Paper No. CB(1)169/12-13(01))

LC Paper No. CB(1)83/12-13(01) —Submission on the Scheme of Control Agreements 2013 Mid-term Review and the Annual Electricity Tariff Reviews from Friends of the Earth (HK) dated 19 October 2012

LC Paper No. CB(1)83/12-13(02) —Submission on the Scheme of Control Agreements 2013 Mid-term Review and the Annual Electricity Tariff Reviews from Greenpeace dated 20 October 2012)

4. The Secretary for the Environment (SEN) briefed members on the interim review of the Scheme of Control Agreements (SCAs) to be conducted by the Government with the two power companies in 2013, by highlighting the salient

points in LC Paper No. CB(1)189/12-13(03). SEN pointed out that any changes to the SCAs had to be mutually agreed by Government and the respective power companies. The Government had sought the views of the Energy Advisory Committee on the interim review and organized two forums to gauge the views of the relevant stakeholders on the issue.

Approach and scope of the interim review

5. Ms Starry LEE remarked that the public would expect that the interim review would result in reduction of the permitted rate of return for the two power companies, and hence a reduction in electricity tariffs. Given that any modification to the terms of the SCAs would need to be agreed by both the Government and the two power companies during the interim review, Ms LEE enquired what measures the Government would take to compel the two power companies to accede to any demand for reducing electricity tariffs; for instance, whether the Government would consider introducing competition in the electricity market, and/or separating power production and transmission to facilitate market entry. Mr Frankie YICK shared Ms LEE's concern and remarked that the Government should look into the impact on the tariffs if it planned to introduce competition in the electricity market in 2018.

6. SEN responded that since any modifications to the existing SCAs would need to be agreed between the Government and the respective power companies, the scope for making any changes to the SCA might be constrained during the interim review in 2013. The Government would have greater flexibility in reviewing the existing SCAs when they expired in 2018. The Government did not have a fixed view on introducing competition in the electricity market, and would take into consideration the views of members and different stakeholders.

7. Mr WU Chi-wai enquired whether preparation work would be made during the interim review of the SCAs in 2013 if the Government planned to open up the electricity market in 2018. Mr WU further enquired whether the Government would aim to enhance the interconnection of the power networks of the two power companies upon the expiry of the existing SCAs in 2018.

8. SEN responded that the issue of opening up the electricity market would not be considered during the interim review of the SCAs in 2013. The Government did not have a fixed view regarding the interconnection of the power networks of the two power companies in the supply of electricity, and the issue would be considered in the context of the overall review of the SCAs which would expire in 2018. The Deputy Secretary for the Environment (DSE) supplemented that based on the existing SCAs, the Government had the discretion to change the regulatory framework for the electricity market when the SCAs expired in 2018, and the Government had to discuss with the two power companies regarding the arrangements of the changes before 2016. Hence after the interim review of the SCAs in 2013, the Government would discuss with the

two power companies the future regulatory framework for the electricity market.

9. Mr YIU Si-wing enquired about the criteria used to assess the permitted rate of return, the emission performance, energy efficiency, the use of renewable energy, etc. of the two power companies in the interim review. Mr YIU opined that it was important to set the criteria in an objective manner when the SCAs were reviewed.

10. DSE remarked that all matters under the SCAs could be considered during the interim review, but any changes to the SCAs should be mutually agreed by the two parties. DSE pointed out that the permitted rate of return for the two power companies was set having regard to a number of factors, such as the advice from experts, and the return for similar industries in other countries. The emission standards were laid down in the Air Pollution Control Ordinance (Cap. 311) (APCO). The latest standards were specified in the Technical Memorandum relating to air pollution under the APCO, which had just been passed by the Legislative Council and would take effect in 2017. There were also provisions in the SCAs encouraging the two power companies to promote energy efficiency. SEN added that the advice from experts and consultants would be taken into consideration in reviewing the SCAs with a view to setting the review criteria in a more objective manner.

11. Mr Andrew LEUNG remarked that the Government's policy on the supply of electricity had a significant impact on industries and the economy of Hong Kong. He opined that the public should be consulted on all matters relating to the supply of electricity, such as the proposals to use progressive or regressive tariff structures, imposing different tariff rates for different periods of the day, restrictions on lighting during evenings, change of the energy mix for electricity generation, and the use of nuclear energy. Ms Cyd HO shared Mr LEUNG's concern. She remarked that the Government should consult the public once it had formulated its stance on the review of the SCAs, either for the interim review in 2013 or the overall review of the SCAs before 2016, as there was a tight schedule for public consultation and discussion with the two power companies and potential competitors on the arrangements for electricity supply after the expiry of the current SCAs in 2018.

12. SEN remarked that since any modification of any parts of the SCAs during the interim review in 2013 would require the consent of both parties, the Government would have more flexibility in the overall review of the SCAs before their expiry in 2018. The Government would consult all the parties concerned in reviewing the SCAs. He added that when the Government had formulated its proposed regulatory framework for the electricity market, it would consult the Panel.

13. Dr Kenneth CHAN remarked that given that any modification of the SCAs during the interim review required the agreement of both parties, the Government should make use of the interim review to discuss with the power companies regarding issues such as the energy mix for electricity generation, the permitted rate of return, the possibility of opening the electricity market and the resultant stranded costs when the SCAs expired in 2018. Dr CHAN remarked that the Government should make reference to international practices regarding the arrangements for payment of stranded costs in case the Government aimed to open the electricity market. The Deputy Chairman echoed Dr CHAN's concern and enquired about the arrangements for the stranded costs if the electricity market was opened after 2018.

14. SEN reiterated that the scope for modification of the SCAs during the interim review might be limited as any changes to the SCAs required the consent of both parties. He said the Government would make use of the coming reviews to discuss with the power companies issues such as energy saving measures, the fuel mix for electricity generation, emission performance, permitted rate of return, etc. On stranded costs, DSE said that in the event that the Government implemented a change in the structure of the electricity market in 2018, the power companies would be allowed to recoup from the market stranded costs that could not be mitigated by measures required by the Government, which might include transferring energy supply agreements and selling generation facilities to any new supplier.

15. Mr Paul TSE commented that the interim review of the SCAs should cover issues such as the permitted rate of return, the linkage between the rate of return and the Average Net Fixed Asset (ANFA), and the interconnection of the power networks of the two power companies to minimize investment on new generating units, with a view to improving the electricity supply arrangements. Mr TSE enquired about the progress of development in response to the motion passed by the Legislative Council on 18 January 2012 urging the Government to create an open electricity market in Hong Kong. Ms Cyd HO remarked that the crux of the review of the SCAs should be the downward adjustment of the permitted rate of return. If the permitted rate of return of 9.99% for the power companies remained unchanged after the review of the SCAs, customers would still have to pay a high tariff.

16. SEN responded that the Government would discuss with the two power companies areas of concern, in particular the permitted rate of return, during the interim review of the SCAs in 2013 and the overall review before 2016. The Government would present to the Panel details of the annual tariff review for 2013 at the next Panel meeting on 11 December 2012.

17. Mr Ronny TONG said that given the restriction in the interim review, namely any modifications of the SCAs had to be agreed by the two parties, the Government should aim to review the regulation of the electricity market through

SCAs before their expiry in 2018. Mr TONG enquired whether the Government would consider regulating the electricity market by legislation instead of SCAs. Mr TONG opined that if the Government planned to open the electricity market in 2018, through interconnecting the networks of the two power companies or introduction of new suppliers, it should discuss with the two power companies as early as possible so that the parties involved could make preparation for the changes, and avoided confusion such as in the case of processing applications for domestic free television programme service licences.

18. SEN responded that the Government would strive for the best interest of Hong Kong in reviewing the arrangements of the SCAs. Some stakeholders suggested interconnection of the power networks of the two power companies in order to reduce the need for new generation units. The two power companies would be informed as early as possible, and not later than 2016, of the Government's policy direction on any possible changes to the regulatory framework of the electricity market. SEN pointed out that there were technical issues to be resolved in connecting the networks of the two power companies. During the public consultation on the overall review of the SCAs, the public would also be consulted on the pros and cons of introducing competition to the electricity market. In some countries, the opening up of the electricity market had not brought about lower tariffs for customers.

19. Dr Elizabeth QUAT remarked that the review of the SCAs should be based on different perspectives, in order to ensure the stable supply of electricity at reasonable costs to help sustain Hong Kong's development.

20. SEN agreed with Dr QUAT's comments and said that in reviewing the regulatory framework for the electricity market, the Government would aim to provide safe, reliable, efficient and environmental-friendly supply of electricity that could contribute to the sustainable development of Hong Kong.

Energy supply and fuel mix

21. Dr Elizabeth Quat enquired whether the interim review would include a review of the fuel mix for generation of electricity, as it would have an impact on electricity tariff.

22. The Under Secretary for the Environment (USEN) remarked that the cost of using natural gas and nuclear energy to generate electricity would be higher than the use of coal. The use of greener energy would help improve Hong Kong's air quality and competitiveness as an international business centre. A balance had to be struck between the use of green energy and the affordability of consumers.

23. Dr Fernando CHEUNG remarked that there were proposals to increase the use of nuclear energy in view of the escalating price of natural gas and the pollution problem caused by the use of coal for electricity generation. Dr CHEUNG expressed concern on the safety in using nuclear energy and enquired about the measures taken by the Government to ensure safety in the use of nuclear energy, and the mass evacuation plan in the case of a nuclear incident. Dr CHEUNG opined that the Government should have a clear policy on the energy mix for electricity generation so that the power companies did not have to make significant investments in facilities to reduce pollution caused by using coal in generating electricity which led to large increase in tariffs. The Chairman remarked that the Administration should brief members, in due course, on the safety aspects of using nuclear energy for electricity generation, as the Mainland authorities had reviewed the use of nuclear energy after the Fukushima incident.

24. USEN responded that the use of different fuel would have a significant impact on air quality, public health, climate change and economic development. As far as the use of nuclear energy was concerned, extensive consultation would need to be conducted. Since Hong Kong obtained the supply of electricity from the Daya Bay nuclear power plant in Guangdong and more nuclear power plants were being developed in the province, the Government would step up its liaison work with the relevant Mainland authorities.

25. Mr Frankie YICK said that given the price increase in the supply of natural gas, consideration should be given to increasing the use of nuclear energy for generation of electricity.

26. SEN responded that there were divergent views among different stakeholders on the use of nuclear energy for generation of electricity, and the Government would carefully assess these views in reviewing the fuel mix with the power companies.

27. Mr LEUNG Kwok-hung objected to using nuclear energy for electricity generation as human error was inevitable and the outcome of a nuclear incident would be disastrous. Mr LEUNG opined that the power companies should refrain from purchasing electricity from the nuclear power plants in Guangdong as the arrangement was tantamount to encouraging the Mainland authorities to build more nuclear power plants. Mr LEUNG said that the power companies should provide funding for the green groups to conduct research on the adverse impact of using nuclear energy.

28. Mr Michael TIEN pointed out that about 70% to 80% of the electricity supply in France was generated by nuclear energy and so far no major incident broke out in France. In order not to encourage the Mainland to build more nuclear power plants near Hong Kong, consideration could be given to purchasing electricity from nuclear power plants distant from Hong Kong. Mr TIEN enquired whether the Daya Bay nuclear power plant, in which the CLP had

invested and participated in the management, had met the international safety standards. Mr TIEN enquired about the impact on the tariff level, based on present price, if a new contract on supply of natural gas had to be made after the expiry of the agreement with Yacheng, and if the energy mix of nuclear energy, natural gas and coal was adjusted to 50%, 40% and 10% respectively. Ir Dr LO Wai-ki and the Chairman shared Mr TIEN's concern. Ir Dr LO remarked that the supply of natural gas had a significant impact on the tariff of electricity, and the development of Hong Kong. Ir Dr LO enquired about the time-table for conclusion of the agreement with the new supplier of natural gas.

29. SEN said that the Government would take into consideration members' views in reviewing the SCAs, based on the principles that electricity supply should be reliable, safe, environmental-friendly and at a reasonable price. DSE added that the energy mix of 50%, 40% and 10% for electricity generated by nuclear energy, natural gas and coal respectively was proposed in the climate change consultation paper in 2010, and the arrangement would be subject to review having regard to the supply and price situation of various energy sources. SEN remarked that the agreement with the new supplier on natural gas was envisaged to be concluded within 2012. The Principal Assistant Secretary for the Environment (Financial Monitoring) (PAS(EN)FM) supplemented that upon completion of the vetting and approval of the new gas supply agreement, details on the price for supply of natural gas would be disclosed and the proposals on the annual tariff review for 2013 would be presented to the Panel at its next meeting on 11 December 2012.

30. Dr Elizabeth QUAT pointed out that the US government was considering using shale gas to generate electricity. Dr QUAT enquired whether the Government would explore the possibility of obtaining supply of shale gas from the neighbouring areas and using shale gas in Hong Kong.

31. SEN remarked that for long term development purpose, the Government would explore the possibility of obtaining the supply of shale gas at reasonable cost in the region. DSE supplemented that technical issues relating to production and transportation would have to be resolved before shale gas might be brought into Hong Kong.

Energy efficiency

32. Mr WONG Kwok-hing opined that since the permitted rate of return of the two power companies was 9.99% on the ANFA, it would be over-generous to provide financial incentives to the companies to improve their performance in energy efficiency, operational efficiency, supply reliability and customer services. Mr WONG was of the view that the financial incentives should be used to support the Tariff Stabilisation Fund (TSF) instead so as to reduce the pressure on any tariff increase.

33. SEN responded that the Government would take into consideration members' views and review the arrangement of providing financial incentives to the power companies for improvement in the performance of energy efficiency, having regard to the need to strike a balance between maintaining a reasonable level of tariffs and the objectives of saving energy and reducing emissions.

34. Given that the Internet data service centres usually consumed a large amount of electricity, Dr Elizabeth Quat enquired whether, based on the latest technology developed in other countries, consideration would be given to setting new standards and providing incentives to the data service centres to encourage them to save energy.

35. SEN remarked that the means to promote energy saving in data centres would be considered.

36. In response to the Deputy Chairman's enquiry, SEN undertook to provide after the meeting the information regarding the measures taken by the two power companies to encourage and assist the private sector in saving energy.

(Post-meeting Note: The requested information was issued to members vide LC Paper No. CB(1)290/12-13(01) on 10 December 2012.)

Surplus generating capacity

37. Mr MA Fung-kwok was concerned that if the power companies continued to increase the amount of electricity supplied by the Daya Bay nuclear power plant, some of the generation units of the two power companies in Hong Kong might become excessive.

38. USEN pointed out that since there was a high demand in the Mainland for electricity generated by nuclear energy and natural gas, Hong Kong might not be able to acquire the amount of natural gas and nuclear power it might require to improve the fuel mix. The issue of recouping the stranded costs of assets made obsolete after the introduction of other electricity suppliers was complicated. It would be studied during the reviews in the pipeline.

39. Mr TANG Ka-piu enquired why the two power companies had to purchase electricity from the Daya Bay nuclear power plant while they sold the surplus electricity to the Mainland.

40. DSE responded that details of the sale of electricity to the Mainland had been given in the annual reports of CLP. DSE pointed out that the Technical Memorandum on emission cap had not provided any allowance to CLP for the sale of electricity to other places, and CLP only made use of its reserve generation capacity in selling electricity to the Mainland. In the current five-year development plans for 2009 to 2014, the Government had not approved the

development of any new generation facilities for the two power companies for the purpose of selling electricity to other places.

41. Mr TANG Ka-piu enquired about the justifications for the two power companies to maintain a 30% to 50% reserve capacity.

42. DSE remarked that in order to satisfy the demand of electricity in a secure and reliable manner, total installed capacity of the power companies had to be higher than the forecast maximum demand at any time, with a margin of reserve to cater for system contingency and allow shutting down of generating units for maintenance and repair. Inadequate generation capacity would lead to power interruptions with unacceptable and costly consequences. The existing reserve capacity levels maintained by the two power companies were in line with international practice.

43. In response to Mr SIN Chung-kai's enquiry regarding the level of reserve capacity of the two power companies and the justifications for maintaining the level, DSE undertook to reproduce, for members' reference, information about the two power companies' reserve margin for installed capacity last provided by them on 24 February 2012 in the context of the 2012 tariff review.

(Post-meeting Note: The information provided by the Administration and the two power companies was issued to members vide LC Paper No. CB(1)290/12-13(01) on 10 December 2012.)

Annual tariff reviews

44. Ms Starry LEE remarked that based on reports in the mass media, CLP and the Hong Kong Electric company Ltd (HKE) had proposed an increase of 13% and 10% respectively in electricity tariffs for 2013, which would inevitably aroused wide public concern. Ms LEE pointed out that in the last tariff review, the two power companies only provided all the required information shortly before the Panel meeting and members were not given sufficient time to review all relevant information. Ms LEE enquired about the time-table for provision of the relevant information to members for discussion of the annual tariff reviews with the power companies.

45. SEN responded that the Panel would be consulted on the annual tariff review for 2013 once the Government had completed discussion with the two power companies. The Government was planning to brief the Panel in mid-December 2012. DSE added that the information provided to members for discussion of the tariff review for 2013 would be based on the arrangements agreed with the Panel in the context of the 2012 exercise.

46. Mr SIN Chung-kai enquired why the Government's approval was not required if the increase in the basic tariff was not more than 5% than the forecast

tariff in the power companies' development plans. Mr SIN also enquired whether the rebate on Government rent and rates would still be given in the annual tariff review for 2013. Dr Elizabeth Quat enquired whether the Government would consider revising the annual tariff review mechanism so that the Executive Council's approval would still be required even if the basic tariff increase was not more than 5%.

47. DSE responded that electricity tariff was made up of two parts, namely, the Basic Tariff and the fuel clause charge. Based on the existing tariff review mechanism, if the proposed basic tariffs did not exceed the forecast tariff approved by the Executive Council for the relevant year in the prevailing development plan by more than 5%, power companies were allowed to implement the basic tariff rates for the year without the need for Government's approval, as the Executive Council had already approved the tariff rates proposed in the development plans of the two power companies. She added that the detailed proposals for the annual tariff review for 2013, including the issue on rebates of Government rent and rates, would be presented to the Panel at the next meeting on 11 December 2012. USEN added that the reviews of the SCAs could cover the role of the Executive Council in the annual tariff adjustments.

48. Mr Frankie YICK expressed reservation on the proposal to change the existing arrangement that the Government's approval was not required if the power companies proposed in the annual tariff review an increase in the basic tariff of not more than 5% on the tariff rate in the development plan approved by the Executive Council. Mr YICK opined that the power companies should be assured of the permitted rate of return so that they could draw up their long term investment plan.

49. SEN remarked that the interim review in 2013 could include a review of the role of the Executive Council in the annual tariff review, and the Government would take into consideration the views of all concerned parties in the interim review.

50. Dr Fernando CHEUNG recalled that in 2012, CLP had made three rounds of adjustments on the proposals for the annual tariff review in response to the public's outcry on the proposals. Dr CHEUNG opined that the transparency of the tariff review procedures should be enhanced.

51. SEN remarked that during the interim review of the SCAs in 2013, consideration would be given to further enhancing the transparency of the tariff review exercises.

52. Dr Kenneth CHAN remarked that the Government and the power companies should take into consideration the affordability of individual households in setting the tariff rates for different types of customers, instead of aiming at attaining the maximum permitted rate of return for the power

companies.

53. SEN said that the Government would take into consideration members' views in reviewing the SCAs.

54. The Deputy Chairman enquired about the balance of the TSF and whether it would impact on the annual tariff review for 2013.

55. DSE remarked that details of the TSF and the annual tariff review for 2013 would be presented to the Panel at the next meeting on 11 December 2012.

Tariff system and electricity consumption

56. Mr WONG Kwok-hing was of the view that in order to encourage energy saving, customers who used a huge amount of electricity should be required to pay a higher rate of charge. He opined that it was unfair that users who consumed less electricity were required to pay the same rate of charge as those who used a large amount of electricity. Mr TANG Ka-piu echoed Mr WONG's concern. Mr TANG opined that the existing tariff system did not encourage energy saving, resulting in consumers having to pay a high tariff. For example, the rate of charge for customers who consumed less than 20 000 units of electricity a month was 90 cents/kWh whereas the rate of charge for customers consuming more than 20 000 units of electricity a month was 60 cents/kWh. Mr TANG enquired whether the Government would consider, during the interim review of the SCAs, conducting a research on which types of enterprises and buildings consumed the largest amount of electricity and whether any waste of electricity was involved. Mr TANG also asked whether the Government would take up the responsibility of designing the tariff charging system for different types of customers.

57. SEN remarked that some enterprises had actual operational needs in consuming a large amount of electricity although they had adopted all possible means to save energy. The Government would take into consideration the views expressed by members and the stakeholders, including the comments on the tariff structure, in conducting the interim review of the SCAs with the two power companies. DSE supplemented that based on the Buildings Energy Efficiency Ordinance (cap. 610) (BEEO) enacted in September 2012, commercial buildings would be required to conduct energy audit and display at conspicuous places of the buildings their energy performance.

58. Dr Elizabeth QUAT enquired whether the BEEO covered shopping centres and what follow-up action would be taken if a building was found to consume an excessively large amount of electricity.

59. SEN responded that the BEEO covered shopping centres as well. Since the BEEO had been enacted for a relatively short time, the Government would

need to collect more information on the use of energy of relevant buildings and analyzed the data before drawing up appropriate measures to promote efficient use of energy.

60. Mr SIN Chun-kai pointed out that while the peak load of electricity consumption might be during the afternoon in the hottest months, most members of the public would normally consume more electricity during the evenings when they returned home from work. Mr SIN enquired whether consideration would be given to imposing different rates of electricity tariff for different periods of the day. Mr Frankie YICK shared Mr SIN's view.

61. SEN remarked that the Government would take into account the views of members and other stakeholders when reviewing the tariff structure. SEN pointed out that in some overseas countries, facilities were provided in the electricity supply infrastructure to measure the consumption of electricity by individual customers during different periods of the day. He said that the Government and the power companies would assess the feasibility of imposing different tariffs during different periods of the day.

62. The Chairman remarked that in reviewing the regulatory framework for the electricity market and the tariff of the two power companies, the Government should take into account the affordability of the customers. For instance, the proposals to charge higher tariffs for customers who consumed large amount of electricity, and to impose different charges for different periods of the day might adversely affect some businesses.

63. SEN responded that in reviewing the regulatory framework for the electricity market, the Government would aim to ensure the reliable and safe supply of electricity at reasonable costs and in an environmentally friendly manner.

64. Mr Charles Peter MOK remarked that the existing arrangements of charging a lower rate for large consumption of electricity should be maintained as the customers involved were those engaged in providing services for the society, such as hospitals, the mass transit railway and Internet data service providers. These customers would normally take all possible steps to save energy. Mr MOK enquired whether more incentives would be given to encourage customers to save energy.

65. SEN remarked that the interim review in 2013 would consider ways and means to further enhance energy saving and reduction of emission. Consideration would also be given to reducing the peak load of electricity consumption during the summer so as to reduce the overall expenditure on the electricity infrastructure and lower the electricity tariff.

66. SEN noted Mr LEUNG Kwok-hung's view that customers who used a larger amount of electricity should be charged a higher rate of tariff as they should shoulder the cost for polluting the environment.

67. Mr MA Fung-kwok commented that the existing tariff system did not encourage energy saving as the two power companies were allowed to earn a permitted rate of return based on their ANFA. The power companies might continue to invest in the electricity supply infrastructure in order to maximize their return despite the efforts of the customers in saving energy, such as the use of equipment to improve energy efficiency.

68. SEN responded that if customers could use less electricity, they would pay a lower tariff. Most energy efficient equipment on the market had a relatively short capital cost recovery period and in the long term would help save more energy. SEN remarked that during the interim review of the SCAs, the Government and the power companies would discuss measures to further improve energy saving.

Proposal to establish a Subcommittee

69. The Chairman referred to the joint letter sent in by Mr Ronny TONG, Dr Kenneth CHAN and Mr Dennis KWOK on 19 November 2012 proposing the establishment of joint subcommittee under the Panel and the Panel on Environmental Affairs to monitor issues relating to the supply of electricity, and said that the Panel's terms of reference already covered the functions of the proposed subcommittee. The Chairman said that he had consulted the Deputy Chairman and some members of the Panel, and they considered that it was not necessary to establish a separate subcommittee to deal with the issues since where necessary, the Panel might convene special meetings to discuss the issues.

70. Mr SIN Chung-kai said that he supported the establishment of a subcommittee to regularly monitor the reviews on the electricity supply arrangements. Mr SIN was concerned that the Chairman might be too busy to convene special meetings of the Panel to discuss the relevant issues.

71. Dr Fernando CHEUNG expressed support for the establishment of a subcommittee under the Panel and the Panel on Environmental Affairs to monitor the annual tariff reviews of the two power companies. He suggested that the subcommittee should hold a public hearing to gauge the views of the public on the tariff reviews.

72. The Chairman remarked that he had responded to members' requests and convened a number of special meetings to discuss the annual tariff review in 2012. The Chairman said that he would consider members' request for holding special meetings of the Panel to discuss the issues raised and the information provided by the Administration.

73. Mr Ronny TONG said that instead of discussing individual issues arising from the review of the regulatory framework of the electricity market, the role of the subcommittee was to continuously review the issues relating to the regulation of the electricity market, including the interconnection of power networks of the two power companies, introduction of new competition in the market, and introducing legislation to regulate the market, etc. Where necessary, the subcommittee could seek the views of experts and relevant organizations on the issues. Mr TONG added that even if the subcommittee was not formed, the Panel could consider inviting experts and related organizations to express their views on the electricity regulatory regime.

74. Mr WONG Ting-kwong objected to the establishment of a separate subcommittee. He opined that the issues relating to the regulation of the electricity market should be dealt with by the Panel and Panels should avoid setting up subcommittees indiscriminately which would put extra burden on members and the secretariat support services.

75. The Chairman put the proposal of establishing a subcommittee to monitor the electricity market to vote. At the request of Mr WONG Ting-kwong, the Chairman ordered a division and the division bell rang for five minutes. A total of 6 members voted for and 7 members voted against the proposal. The voting of individual members was:

For:

Mr Ronny TONG
Dr LEUNG Ka-lau
Mr WU Chi-wai
(6 members)

Dr Fernando CHEUNG
Mr SIN Chung-kai
Mr TANG Ka-piu

Against:

The Deputy Chairman
Mr Andrew LEUNG
Mr WONG Ting-kwong
Mr James TIEN
(7 members)

Mr Frankie YICK
Mr Christopher CHEUNG
Dr Elizabeth QUAT

76. The Chairman declared that the proposal of setting up a subcommittee to monitor the electricity market was rejected.

Concluding remark

77. The Chairman remarked that members had expressed their views on the interim review of the SCAs and related issues on the regulation of the electricity market, including the use of nuclear energy and natural gas, the tariff charging system, etc. The Chairman said that the Administration should take into consideration the views of members and the public in the review of the SCAs and

the long term planning on the regulatory framework for the electricity market. The Administration should brief the Panel on any proposals for revising the SCAs after consultation with the public.

V Public consultation on proposal to impose concentration limits of phthalates in toys and child care products

(LC Paper No. CB(1)189/12-13(05) —Administration's paper on public consultation on proposal to impose concentration limits of phthalates in toys and child care products

LC Paper No. CB(1)189/12-13(06) —Paper on regulating toys and children's products safety prepared by the Legislative Council Secretariat (background brief))

78. The Deputy Secretary for Commerce and Economic Development (Commerce and Industry) (DS(C&I)) briefed members on the proposal to impose concentration limits of phthalates in several types of toys and child care products, by highlighting the salient points in the paper.

79. The Chairman declared that he was a toy manufacturer.

80. Mr SIN Chung-kai enquired about the implementation arrangements as the relevant products might have already been imported or put on sale at retail outlets upon the enactment of the relevant legislation. Mr SIN enquired whether a transitional period would be provided to facilitate the relevant parties to prepare for the implementation of the legislation.

81. DS(C&I) remarked that the proposed new legislation would be commenced several months after it was passed by the Legislative Council so that the importers and retailers could make the necessary arrangements to comply with the new legislation. The Government, in particular the Customs and Excise Department (C&ED), would launch a publicity programme to assist the parties concerned to comply with the requirements and an education programme to advise the public on the requirements.

82. Mr Ronny TONG remarked that since many consumer products were imported from the Mainland which might not comply with the phthalates requirements in the proposed legislation, consumers might have less choice in these products. Mr TONG also enquired about the impact of the new legislation on Mainland suppliers.

83. DS(C&I) remarked that the Mainland authorities had not laid down any regulations on the concentration limits of phthalates in toys and children's products. As regards Member's question about whether the proposed control would mean less choices for consumers, DS(C&I) said that substitute chemicals for phthalates were available, albeit might be of a higher cost. The proposed legislation could ensure that toys and relevant children's products imported into Hong Kong (including those from the Mainland) complied with international standards, especially in view of the need to protect the safety of children. DS(C&I) supplemented that during the public consultation, the relevant trade associations would be invited to give their views on the proposed legislation.

84. In response to Mr Ronny TONG's enquiry whether importers who had signed contracts with suppliers outside Hong Kong to provide products that did not comply with the required standards would commit an offence, DS(C&I) remarked that persons would commit an offence when they imported the non-compliant products into Hong Kong after the commencement of the proposed new legislation.

85. Mr TANG Ka-piu expressed concern about whether all children products, irrespective of whether they were meant for children aged below 48 months, were subject to the same phthalates limit specified in the proposed legislation as parents might not be aware whether individual products met the safety standards. The Chairman remarked that wide publicity should be made on the concentration limits of phthalates for different children's products.

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86. DS(C&I) remarked that advanced jurisdictions like the European Union had different phthalates concentration limits for different products. C&ED's enforcement actions on other consumer products would be based on the standards of other advanced overseas jurisdictions. At Member's request, DS(C&I) undertook to provide information regarding the concentration limits of phthalates imposed by other jurisdictions on products which were not specified in the proposed legislation. DS(C&I) added that publicity would be made upon implementation of the proposed legislation.

87. The Deputy Chairman was concerned that while many toys and children's products were imported from the Mainland and the standards of the products might vary, the importers, wholesalers and/or retailers in Hong Kong might inadvertently buy sub-standard products from the Mainland and would be liable to an offence.

88. The Acting Head of Trade Controls of C&ED (H(TC)/C&ED) responded that C&ED regularly held seminars with the relevant trade associations to explain the legal requirements on the standards for different products. C&ED would enhance publicity on the requirements in implementing the proposed legislation.

89. The Chairman pointed out that the proposed legislation was in line with international requirements, and technically the manufacturers should be able to comply with the requirements. The Chairman enquired whether tighter checks would be conducted on products imported from places with loose control on phthalates.

90. H(TC)/C&ED remarked that C&ED would take appropriate enforcement actions on a risk-assessment basis in order to ensure that the imported toys and children's products complied with the requirements on the concentration limit of phthalates.

Phthalates in other consumer products

91. Dr Elizabeth QUAT was concerned that phthalates were also found in other consumer products other than toys and children products, such as healthcare products and cosmetics. Dr QUAT enquired about the enforcement actions against excessive concentration limits on other consumer products. Dr Fernando CHEUNG shared Dr QUAT's concern. He enquired about the control of phthalates in food packaging materials and drinks.

92. DS(C&I) remarked that phthalates in consumer products other than toys and children's products were controlled under the Consumer Goods Safety Ordinance (Cap. 456) and enforcement actions could be undertaken taking into account overseas jurisdictions' standards. H(TC)/C&ED supplemented that C&ED regularly conducted sample checks on consumer goods to ascertain if they contained excessive phthalates, and so far the products were found to have complied with the statutory standards. DS(C&I) added that the Centre for Food Safety was responsible for the control of the food contents based on the Tolerable Daily Intakes promulgated by the World Health Organization and the European Food Safety Authority. The Chairman remarked that questions on food safety were not relevant to the proposed legislation, and should be raised at the relevant Panel.

VI Pilotage (Amendment) Bill

(LC Paper No. CB(1)189/12-13(07) —Administration's paper on Pilotage (Amendment) Bill 2012

LC Paper No. CB(1)189/12-13(08) —Paper on the Pilotage Ordinance prepared by the Legislative Council Secretariat (background brief))

93. The Under Secretary for Transport and Housing (USTH) briefed members on the proposed amendments to the Pilotage Ordinance (Cap. 84), by highlighting the salient points in the paper.

Succession of pilots

94. Mr TANG Ka-piu noted that the existing pilots had to defer their retirement and merchant ships visiting Hong Kong would increase after the commencement of the operation of the cruise terminal in Kai Tak, Mr TANG Ka-piu expressed concern about succession to retiring pilots. He enquired what measures the Government had taken to train sufficient pilots to meet the envisaged increase in demand of pilotage service. Mr SIN Chung-kai shared Mr TANG's concern and enquired about the age level of the existing pilots and whether sufficient pilots would be trained to meet the envisaged increase in demand of pilotage service.

95. USTH remarked that the number of merchant ships visiting Hong Kong had remained rather stable in recent years and the existing number of pilots was able to meet the demand of pilotage service. In view that about 70% of the existing pilots were at the age of 50 or above, the Assistant Director/Port Control, Marine Department (AD(PC)/MD) said that the Government had taken measures to ensure the succession to the pilotage. In order to attract youngsters to receive sea-going training and become pilots, the Government had launched the Sea-going Training Incentive Scheme ("the Training Scheme") in 2004. As at mid-November 2012, 225 persons had participated in the Training Scheme. 72 of the trainees were qualified as Deck Officer (Class III) while three trainees obtained the licence of a Captain which made them qualified as apprentice pilots. USTH added that the Training Scheme should be able to train sufficient pilots for the purpose of pilot succession and meeting the future demand of pilotage service.

Pilotage requirements

96. Mr Frankie YICK doubted whether compulsory pilotage was still required for large vessels which frequently travelled in Hong Kong waters. Mr YICK asked whether the qualification requirement for a pilot could be lowered in order to enable more trained personnel to work as pilots.

97. USTH remarked that the provision of pilotage service was to ensure the safety of vessels in Hong Kong waters. The Government would carefully examine the need of providing pilotage service for large vessels frequently travelling in Hong Kong waters, having regard to the safety requirement. USTH pointed out that the proposed amendments to the Pilotage Ordinance (Cap. 84) already provided for relaxation of certain pilotage requirements. Compulsory pilotage applied to ships of 1,000 gross tonnage or over that were proceeding to or from the Kwai Tsing container terminals previously and it was now proposed to lift such requirement for vessels under 3,000 gross tonnage in view of the

established maritime traffic management measures and improved technology such as the installation of the Automatic Identification System to track the speed and routing of the river trade cargo vessels.

98. Mr Ronny TONG expressed concern about the proposed lifting of compulsory pilotage for vessels under 3,000 gross tonnage proceeding to and from the Kwai Tsing container terminals, taking into account the fatal vessel collision off Lamma Island on 1 October 2012. Mr. TONG opined that in order to ensure the safety of vessels in Hong Kong waters, compulsory pilotage was essential to guide the crew of vessels who were unfamiliar with the routes and condition in the harbour. The service was particularly important during emergencies. Mr TONG asked whether the Administration would re-consider the proposal of lifting the pilotage requirement relating to the Kwai Tsing container terminals. The Chairman remarked that the safety of vessels in the harbour should be of paramount importance.

99. USTH remarked that the Government only proposed to lift the pilotage requirement for vessels of less than 3,000 gross tonnage proceeding to and from the Kwai Tsing container terminals. At present, vessels of 1,000 gross tonnage or above could apply for exemption of the pilotage requirement if the vessel had frequently travelled in the area and the crew was familiar with the condition of the route. Given that there was no incident recorded in the Kwai Tsing container terminals, and the good performance of the coxswain of river trade vessels in the past, the Administration proposed the lifting of the compulsory pilotage requirement for vessels of less than 3,000 gross tonnage.

100. Members noted that the Pilotage (Amendment) Bill 2012 would be introduced into the Legislative Council in the current legislation session.

VII Any other business

101. There being no other business, the meeting was adjourned at 12:25 pm.