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**Legislative Council**

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**Establishment Subcommittee of the Finance Committee**

**Minutes of the 5<sup>th</sup> meeting**  
**held in Conference Room 1 of Legislative Council Complex**  
**on Wednesday, 8 January 2014, at 8:30 am**

**Members present:**

Hon Mrs Regina IP LAU Suk-ye, GBS, JP (Chairman)  
Hon Kenneth LEUNG (Deputy Chairman)  
Hon Emily LAU Wai-hing, JP  
Hon WONG Ting-kwong, SBS, JP  
Hon Starry LEE Wai-king, JP  
Hon WONG Kwok-kin, BBS  
Hon LEUNG Kwok-hung  
Hon Steven HO Chun-yin  
Hon YIU Si-wing  
Dr Hon KWOK Ka-ki  
Hon KWOK Wai-keung  
Hon SIN Chung-kai, SBS, JP  
Hon IP Kin-yuen  
Hon Martin LIAO Cheung-kwong, JP  
Hon POON Siu-ping, BBS, MH  
Hon TANG Ka-piu

**Members absent:**

Hon Christopher CHEUNG Wah-fung, JP  
Hon CHUNG Kwok-pan

**Public Officers attending:**

Ms Esther LEUNG, JP	Deputy Secretary for Financial Services and the Treasury (Treasury)1
Mr Eddie MAK Tak-wai, JP	Deputy Secretary for the Civil Service (1)
Mr YAU Shing-mu, JP	Under Secretary for Transport and Housing
Ms Julina CHAN, JP	Deputy Secretary for Transport and Housing (Transport)
Ms Jenny CHAN	Principal Assistant Secretary for Transport and Housing (Transport)
Mr Francis LIU, JP	Director of Marine
Ms Shirley LAM, JP	Deputy Director of Marine (Special Duties)
Miss Helena CHAN	Senior Principal Executive Officer (Special Duties), Marine Department
Mr CHENG Yeung-ming	Chief, Marine Accident Investigation and Shipping Security Policy, Marine Department
Mr Gilbert MO	Deputy Law Draftsman (Bilingual Drafting and Administration), Department of Justice
Ms Anissa WONG, JP	Permanent Secretary for the Environment
Mr Donald NG	Acting Deputy Secretary for the Environment
Miss Ada CHEN	Senior Assistant Law Officer (Civil Law), Department of Justice
Mr Rex CHANG, JP	Deputy Secretary for Development (Planning and Lands)
Mr Ryan CHIU	Principal Assistant Secretary for Development (Planning and Lands)
Mr HUI Siu-wai, JP	Deputy Director of Buildings
Mr Alex CHOW	Assistant Director/Mandatory Building Inspection, Buildings Department
Ms Mable CHAN, JP	Deputy Secretary for Financial Services and the Treasury (Treasury)2
Ms Shirley KWAN	Principal Assistant Secretary for Financial Services and the Treasury (Treasury) (Revenue)
Mr WONG Kuen-fai, JP	Commissioner of Inland Revenue

**Clerk in attendance:**

Ms Connie SZETO	Chief Council Secretary (1)4
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**Staff in attendance:**

Mr Andy LAU	Assistant Secretary General 1
Mr Hugo CHIU	Council Secretary (1)4
Ms Alice CHEUNG	Senior Legislative Assistant (1)1
Ms Clara LO	Legislative Assistant (1)9

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*(The Chairman left the meeting at 10:15 am, and the Deputy Chairman took up the chairmanship for the rest of the meeting. At 10:28 am, the Deputy Chairman announced that the meeting be extended to 10:45 am. Members agreed.)*

The Chairman drew members' attention to the information paper ECI(2013-14)11 which set out the latest changes in the directorate establishment approved since 2002.

**EC(2013-14)13      Proposed creation of four supernumerary directorate posts of one Administrative Officer Staff Grade B (D3), one Senior Principal Executive Officer (D2) and one Assistant Director of Marine (D2) in the Marine Department; and one Deputy Principal Government Counsel (DL2) in the Department of Justice from February 2014 to 31 May 2016 and an increase in the establishment ceilings in 2013-14 under Heads 100, 92 and 158 to facilitate taking forward of systemic reform of the Marine Department and the marine-related legislative amendments**

2. The Chairman said that the Administration's proposal was to create four supernumerary directorate posts of one Administrative Officer Staff Grade B (D3), one Senior Principal Executive Officer (D2) and one Assistant Director of Marine (D2) in the Marine Department (MD); and one Deputy Principal Government Counsel (DPGC) (DL2) in the Department of Justice (DoJ) from February 2014 to 31 May 2016 and an increase in the establishment ceilings in 2013-14 under Heads 100, 92 and 158 to facilitate taking forward of systemic reform of MD and the marine-related legislative amendments.

3. Members noted that the Panel on Economic Development was

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consulted on the proposal at its meeting on 25 November 2013. Panel members supported the proposal in general. Some Panel members considered it necessary to make improvement to the systems, administration and management of MD, given MD's unsatisfactory performance in handling the vessel collision incident near Lamma Island in 2012 (Lamma incident). Some Panel members pointed out that MD had been facing chronic manpower shortage, and it was reasonable to strengthen the directorate establishment of the Department to coordinate and implement the relevant reform measures. A Panel member was opposed to the proposal, and expressed dissatisfaction on MD's performance in handling the Lamma incident. The Panel member opined that it was ridiculous to "reward" MD with additional resources instead of taking disciplinary actions against the staff concerned.

Implementation of the systemic reform of the Marine Department

4. The Chairman expressed support for the proposal in principle, and sought details on the reform to be carried out in MD. While agreeing that marine safety should be enhanced in the wake of the Lamma incident, the Chairman conveyed the industry's concern about difficulty for it in complying with some of the proposed enhanced safety measures and low effectiveness of some measures. For instance, the proposed requirement for vessels to install automatic identification system but such equipment was of limited use for small vessels. Coupled with the shortage of marine professionals in Hong Kong and the lack of support from MD, the Chairman was concerned how the industry could comply with the proposed reform measures.

5. Mr Martin LIAO expressed support for the initiative to reform MD. Pointing out that the Lamma incident could partly be attributed to operational problems in MD, Mr LIAO enquired about interim measures to be taken by the Administration to ensure marine safety before MD's reform was materialized.

6. Under Secretary for Transport and Housing (USTH) responded that the Task Force on Reform in MD (the Task Force) would be established to service and support the work of the Steering Committee on Systemic Reform of Marine Department (the Steering Committee) which was set up in May 2013 to, inter alia, take forward the recommendations of the Commission of Inquiry (CoI) appointed to look into the Lamma incident. The Steering Committee focused its work on three areas, namely (a) MD's follow up on operational issues such as improvements on safety standards and work practices; (b) organizational structure and work processes and improvements of MD; and (c) manpower strategy and training of MD. As regards follow-up for the Lamma incident, USTH said that a number of immediate remedial actions had been implemented, including comprehensive

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re-inspection of all ferries, launches and kaitos, ensuring adequate provision of life-jackets on board as required by law, as well as strengthening publicity on marine safety and dissemination of safety information to passengers. The Administration had also formulated short-, medium- and long-term measures in enhancing marine safety. USTH said that consensus had been reached with the marine industry on the implementation of specific measures in the first phase. Such include requiring vessels carrying more than 100 passengers to have a crew member to assist the coxswain as look-out, installation of alarm systems for watertight doors, and having a muster list etc. Noting the industry's concern, USTH assured that these measures would be implemented in a progressive manner. The Administration would continue to discuss with the industry on longer term improvement measures relating to operational and technical aspects as well as manpower training and enhancement. In relation to the latter, the Administration would seek the Finance Committee (FC)'s approval to set up a \$100 million Maritime and Aviation Training Fund. Furthermore, the Administration would expedite progress of outstanding marine-related legislative amendment exercises and aimed to submit the legislative proposals for vetting by the Legislative Council (LegCo) as early as possible.

7. While expressing support for the proposal, noting the complex and technical nature of the tasks involved in the reform for MD, Mr YIU Si-wing was concerned how the Administration could recruit suitable officers for the proposed posts in MD who should possess knowledge of the marine industry and were conversant with its operations. In particular, he said that the industry was concerned that stringent marine safety regulations would be imposed resulting in over-regulation of the industry. Moreover, Mr YIU was concerned whether the proposed duration for the supernumerary posts would be sufficient for completing the work given the wide scope of the review.

8. USTH responded that the posts to be created in MD would be responsible for undertaking high-level administrative duties such as overseeing the review on the organization and operational work process of MD, formulating regulatory reform proposals for the marine industry, and developing manpower training programmes. It was envisaged that such work would be largely completed in the proposed period and actual implementation of the various reform measures would be taken up by MD after that. Deputy Director of Marine (Special Duties) (DDM(SD)) supplemented that in order to support the Steering Committee in commencing the review of MD as soon as possible, she and another senior Executive Officer grade officer had been deployed to MD from within the Administration since establishment of the Steering Committee in May 2013. Since then, eight meetings had been held and a number of issues like safety standards for vessels, MD's manpower challenge and reform on MD's organizational structure and operational work

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processes had been deliberated. The Task Force would continue its work till May 2016.

9. Ms Emily LAU expressed similar concern about capability of the proposed posts in MD in coping with work of the review. Dr KWOK Ka-ki queried whether the reform in MD could be implemented successfully as the holders of the three proposed posts did not have maritime background or knowledge on the marine sector and a good understanding of the operation of the industry.

10. USTH reiterated that the Task Force was set up to support the Steering Committee in taking forward the various recommendations of CoI. While acknowledging that the reform in MD would involve highly professional and management issues such as improving the operational manual and standards relating to marine safety in MD, the review also focused on improving the existing systems and organizational structure of MD, as well as long-term manpower planning. It would therefore be more appropriate for both general grade and professional grade staff to take charge of the tasks. The Steering Committee, with the assistance of the Task Force, would seek to establish suitable systems in MD to address its organizational and operational issues. While the two-year term of the Steering Committee would end in May 2015, the proposed three directorate posts in MD would continue to carry out the relevant follow-up actions up to May 2016.

11. Dr KWOK Ka-ki enquired about the problems in MD identified by the Steering Committee and Task Force and sought details on the measures for tackling such problems. DDM(SD) responded that the work of the Steering Committee and the Task Force was three-fold. On enhancing safety standards, the Task Force acted as a dedicated team to co-ordinate the work of various divisions in MD and the consultation with the industry on safety enhancement measures. As regards MD's operational workflow, the Efficiency Unit was conducting an organization review and had identified a number of issues for improvement like enhancement in internal/external communications, documentation and information management and delineation of responsibilities among various branches in MD. As for manpower strategy and training, the Steering Committee would examine issues including MD's recruitment difficulty in professional grade/posts, and devise measures to enhance manpower training. DDM(SD) stressed that knowledge in administration, management and operation of the Government was necessary for discharging duties of the proposed posts. In response to Dr KWOK's enquiry about whether the Administration would engage any external experts to evaluate the reform in MD, DDM(SD) said that the Administration would engage external experts including those from international marine regulatory bodies to advise MD on the measures to be adopted. Appointment of

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external experts was being planned.

Target for submission of marine-related legislative proposals

12. Noting from paragraph 15 of EC(2013-14)13 that the Administration's target was to submit marine-related legislative amendments to LegCo by early 2016, Ms Emily LAU was concerned that sufficient time would not be available for LegCo Members to scrutinize the amendments given that the term of current LegCo would end in mid-2016.

13. USTH clarified that the target referred to in paragraph 15 of EC(2013-14)13 related to the submission of legislative amendments to update local legislation for implementing latest international marine standards and requirements in international conventions as promulgated by the International Maritime Organization and the International Labour Organization. Owing to the voluminous nature of work involved in such amendments and manpower constraint, DoJ had been adopting a phased approach by prioritizing the amendment exercises and staggering their processing in batches. In order to expedite the relevant exercises, the current proposal proposed to create a supernumerary DPGC post to head a dedicated legal team in DoJ to support the Transport and Housing Bureau and MD to take forward the task. Meanwhile, the Administration would, upon consultation with the local vessel industry, work out legislative amendments for implementing measures to enhance local marine safety with a view to addressing issues identified by CoI. On the timetable for introducing such legislative proposals into LegCo, USTH said that the first phase improvement measures had been gazetted by way of amendment to the Code of Practice. In the second phase, the Administration would introduce the relevant legislation by batches into LegCo subject to consultation with the trade. It was anticipated that this task would take one to two years to complete.

Provision of professionals and technical manpower for the marine industry

14. Mr TANG Ka-piu and Mr WONG Kwok-kin indicated support for the proposal. However, they expressed concern about the supply of marine professionals and technical manpower for the development of marine industry in Hong Kong. Mr TANG pointed out that there was a shortage of relevant professionals like surveyors of ships to implement the reform and safety enhancement measures. The some 40 training places provided per year by the Maritime Services Training Institute were inadequate and graduates often could not find employment as there were little incentives for ship-owners to create cadet posts. Besides, there was a lack of training programmes in Hong Kong for cadet graduates to continue their career. Mr WONG further pointed out that the local marine sector had been facing a serious succession problem,

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and the supply of manpower in a number of marine professions such as surveyors of ships, safety officers and harbour pilots, etc. was in acute shortage. Mr WONG stressed the need for the Administration to formulate a comprehensive manpower strategy and develop training programmes to meet the needs of the industry and to maintain Hong Kong's status as an international maritime centre. He also urged the Administration to consider giving priority to local people to take up work for certain posts like Captains, Chief Engineers and Chief Officers, as well as providing training programmes on new areas of marine knowledge like marine insurance and marine actuarial valuation.

15. USTH took note of members' views. He said that the Administration was aware of the concerns of the marine industry about the manpower shortage problem. It should be noted that creation of the three proposed directorate posts in MD would not be an immediate solution to the problem which would take time to resolve. He assured members that the Task Force would formulate measures to enhance manpower training and address the succession problem in MD. The Administration would also collaborate with the industry in dealing with the manpower issue of the trade. For instance, the Administration would seek FC's approval for setting up the Maritime and Aviation Training Fund to provide more scholarship and internship opportunities in the industry, and would continue to liaise with the industry on manpower training matters.

Establishment in the Marine Department

16. Mr POON Siu-ping expressed support for the proposal. He enquired whether the decrease in the establishment of MD from 1 372 as at 1 April 2011 to 1 365 as at 1 December 2013 was due to recruitment difficulty or a lack of resources in the Department. As 20 non-directorate posts would be created in MD for 28 months to support work of the Task Force, Mr POON asked whether these posts would be retained for implementing measures recommended by the Task Force.

17. USTH said that the Administration was aware of the manpower and succession problems in MD, and the systemic review to be undertaken by the Task Force was to address these problems. Deputy Secretary for Transport and Housing (Transport) supplemented that reduction in the establishment of MD was caused by the deletion of six posts which were vacant posts that had no operational need due to the closure of the public cargo handling areas at Kwun Tong and Cha Kwo Ling in 2011 and 2012 respectively. She reiterated that the Steering Committee was reviewing the long term manpower situation in MD and would work out measures to address the recruitment problem, such as exploring the feasibility of relaxing the entry requirements of certain



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professional grades and providing more on-the-job training to staff after recruitment.

18. The item was voted on. The Chairman declared that the Subcommittee agreed to recommend the item to FC for approval. Dr KWOK Ka-ki requested separate voting for the item at the FC meeting to be held on 7 February 2014.

**EC(2013-14)14      Proposed creation of two supernumerary posts of one Administrative Officer Staff Grade C (D2) in the Environment Bureau and one Assistant Principal Government Counsel (DL1) in the Department of Justice for a period of two years with effect from 10 February 2014 to take forward the review of the future regulatory framework for the electricity market after the expiry of the current Scheme of Control Agreements in 2018**

19. The Chairman said that the Administration's proposal was to create two supernumerary posts of one Administrative Officer Staff Grade C (D2) in the Environment Bureau (ENB) and one Assistant Principal Government Counsel (DL1) in DoJ for a period of two years with effect from 10 February 2014 to take forward the review of the future regulatory framework for the electricity market after the expiry of the current Scheme of Control Agreements (SCAs) in 2018 (the Review).

20. The Chairman advised that the Panel on Economic Development had been consulted on the proposal at its meeting on 10 December 2013. Panel members were supportive of the proposal in general. Some Panel members expressed concerns on issues including Government's regulation over the electricity market, opening of the power grids of the two power companies, reducing the power companies' reserve electricity generation capacity, and whether the proposed increase in manpower could cope with the work arising from the Review including the Administration's negotiation with the two power companies on the future regulatory framework. In formulating the future regulatory regime, some Panel members had urged the Administration to consider the impacts on the labour market. Two Panel members were opposed to the proposal. They were of the view that as the Administration's previous negotiation with the two power companies had gained no progress on important issues like reduction of the permitted rate of return, the proposed creation of supernumerary directorate posts would unlikely achieve any concrete outcome. Moreover, the current proposal was unnecessary as the Administration had conducted a number of reviews on

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regulation of the electricity market in the past without seeking additional manpower resources.

Negotiation with the two power companies on the future regulatory framework for the electricity market

21. Mr TANG Ka-piu noticed that the two power companies had adopted tactics in presenting changes to the electricity tariff for 2014, and expressed concern whether the Administration had sufficient capability, including strong support from professionals in various disciplines, in conducting discussions and negotiations with the two power companies in the Review. Moreover, given the tight timeframe from now to the expiry of the two SCAs in 2018, Mr TANG was concerned that the Administration might finally extend the SCAs with the power companies for five more years without making changes to the current regulatory regime.

22. Dr KWOK Ka-ki expressed concern about whether the holders of the supernumerary posts possessed the relevant expertise and knowledge to negotiate with the two power companies. Ms Emily LAU queried whether it would be suitable for the proposed post in ENB to be filled by an Administrative Officer (AO) given that the Review covered a lot of technical issues and involved knowledge of various professional disciplines. She enquired whether the Administration would consider recruiting external experts to assist in the Review.

23. Permanent Secretary for the Environment (PSE) assured members that the Administration had been performing a gate-keeping role in implementing the current SCAs and would continue to closely monitor any electricity tariff adjustments. She pointed out that the Review would be time-critical, and would entail mammoth and extremely complicated tasks covering a wide range of policy, economic, legal, financial and technical issues. In conducting the Review, the Administration would take into account the energy policy objectives to ensure a safe, reliable and efficient provision of energy at reasonable prices while minimizing the environmental impact of electricity generation, and consider all relevant factors, including the availability of new reliable and environmentally sound supply resources. It would also have to discuss with the power companies any potential changes to the electricity supply regulatory framework and transition issue. Given that the Review would involve formulation of public policies and proposals, planning of public engagement activities, and coordination with various parties and stakeholders etc., it would be appropriate for an AO to head the dedicated team in ENB to assist in undertaking the Review. She added that the dedicated team would also be supported by other professional staff knowledgeable in related financial and engineering matters. If necessary, the

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Administration would invite the help of external experts in conducting relevant consultancy studies. As regards the concern about extension of the current SCAs, PSE said that although the current SCAs had included a provision for the Government to extend the term of SCAs with the two power companies for five years until 2023, it was only an option exercisable by the Government rather than an obligation.

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24. Dr KWOK Ka-ki requested the Administration to provide information on the experience and expertise of the officers in the dedicated teams to be established for taking forward the Review, in particular their experience and expertise in undertaking discussion and negotiation with the two power companies.

Review on the future regulatory framework for the electricity market

25. Dr KWOK Ka-ki considered that the community had already reached a clear consensus that in the future regulatory regime, power companies should be prevented from earning excessive profits. He questioned the need for the Administration to consult the public on the way forward for the electricity market.

26. PSE pointed out that in undertaking the last review of the regulatory framework for the electricity market before drawing up the current SCAs, the Administration had conducted extensive public consultation and thorough research. She stressed that public views had played an important role in that exercise. PSE added that the Administration planned to engage and consult the public in conducting the Review, and would report the outcome to the relevant Panel of LegCo.

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27. Dr KWOK Ka-ki enquired about plans and timetables of the Government for conducting consultation/engagement exercises with the public on the Review, and reporting the results to and consulting LegCo and its relevant committees. The Administration was requested to provide the information after the meeting.

28. Referring to paragraph 7 of EC(2013-14)14 which stated that the purpose of the Review was to explore the feasibility of introducing "more competition" to the Hong Kong electricity market, Ms Emily LAU pointed out that the paragraph had failed to reflect the real situation in the local electricity market which there was no competition at all.

29. In response, PSE said that the current regulatory framework for the electricity market had been developed against a number of factors. In proceeding with the Review, the Administration would aim at the direction of

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introducing more competition to the local electricity market after the expiry of the current SCAs in 2018, and relevant issues like segregation of electricity generation from the power grid would be examined in detail.

30. Dr KWOK Kai-ki considered that measures such as enhancing power interconnection among power companies and requiring power companies to open their power grids could enhance market competition. Also lowering the permitted rate of return for the power companies would help boost the public's confidence on the regulatory regime. He enquired whether the Administration would consider incorporating these features in the future regulatory regime.

31. PSE responded that issues like power interconnection, opening up the power grid for third-party access, and separation of power generation from power distribution were very complex issues involving legal, technical and financial considerations. It should be noted that the existing power grids of the two power companies were private assets of the companies. The Administration had to study these issues carefully having regard to the energy policy objectives and the implications on the operation of the electricity market. The Administration would discuss with the power companies and consult the public and LegCo on these issues as necessary.

32. Noting that the public had suggested the Government to consider enacting legislation to regulate the electricity market, Mr TANG Ka-piu asked whether the Administration would consider the suggestion. PSE responded that this would be one of the issues to be considered in the Review.

33. Mr Martin LIAO enquired if the Administration had any contingency plans should the negotiation with the power companies on the future regulatory regime broke down. PSE responded that the Administration was well aware of the time criticality of the Review as it would need to discuss with the power companies any potential changes to the electricity supply regulatory framework before 2016. It was therefore important to create the two supernumerary posts to head the two dedicated teams to be set up in ENB and DoJ respectively to commence the Review as soon as possible. PSE reiterated that the current SCAs had included an option exercisable by the Government to extend the term for five years until 2023. The Administration would consider the need to formulate contingency plans as necessary.

The provision on "stranded costs" under the existing Scheme of Control Agreements

34. Ms Emily LAU sought details on the "stranded costs" in the existing SCAs mentioned in paragraph 7(d) of EC(2013-14)14 and their financial

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implications on the future regulatory framework. Acting Deputy Secretary for the Environment explained that in generating and supplying electricity, the two power companies had to make capital investments. Stranded costs referred to costs incurred by the two power companies in relation to such capital investments that could not be recovered in the market as a result of a change implemented by the Government to the electricity supply market structure. The current SCAs had provided that the Government would discuss with two power companies whether there would be any Stranded Costs and if so the mechanism to recover the Stranded Costs. He added that this arrangement was in line with international practices.

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35. At Ms Emily LAU's request, ENB was required to provide supplementary information on details of "stranded costs" in the existing SCAs, including the text of the relevant provisions, operation of the provisions and how stranded costs would be determined, as well as impact of the stranded costs on the public.

36. The item was voted on. The Chairman declared that the Subcommittee agreed to recommend the item to FC for approval. Dr KWOK Ka-ki requested separate voting for the item at the FC meeting to be held on 7 February 2014.

**EC(2013-14)15      Proposed making permanent of one post of Government Building Surveyor/Government Structural Engineer (D2) in the Buildings Department with effect from 1 April 2014 to head the Mandatory Building Inspection Division**

37. The Chairman said that the Administration's proposal was to make one post of Government Building Surveyor/Government Structural Engineer (GBS/GSE) (D2) in the Buildings Department (BD) permanent with effect from 1 April 2014 to head the Mandatory Building Inspection Division (MBID).

38. The Chairman advised that the Panel on Development had been consulted on the proposal at its meeting on 26 November 2013. Majority of Panel members present at that meeting were supportive to the proposal for sustaining implementation of the Mandatory Building Inspection Scheme (MBIS) and the Mandatory Window Inspection Scheme (MWIS) and other initiatives to enhance building safety. Some Panel members expressed reservations on the proposal. Two Panel members were opposed to the proposal and expressed concern that creation of the GBS/GSE post could not alleviate manpower shortage in BD and serious backlogs in work encountered

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by the frontline staff arising from the implementation of various new initiatives with adoption of a multi-pronged approach to enhance building safety since 2011. Upon request by Panel members, the Administration had provided supplementary information to explain how BD would tackle the problems vide LC Paper No. CB(1)630/13-14(01) after the meeting.

Manpower shortage in the Buildings Department

39. Mr POON Siu-ping and Mr KWOK Wai-keung expressed concern about the manpower shortage problem in BD. They pointed out that as some of the additional 190 non-directorate civil service posts to be created in 2014-15 would be converted from the existing non-civil service contract positions, there would be no real increase in the number of frontline staff in BD to address the demand of some staff unions for strengthening frontline manpower. They enquired how the Administration would alleviate the tight manpower situation in BD's frontline staff.

40. Ms Starry LEE said that staff members of BD had suggested increasing the number of non-professional staff in the Department in order to strengthen the support for professional staff. She enquired about measures BD would consider to alleviate the manpower shortage problem and enhance technical support for the professional staff.

41. Deputy Secretary for Development (Planning and Lands) (DS(P&L)) responded that the Administration understood that implementation of the multi-pronged approach to enhance building safety had increased the workload. BD would create another 190 posts in the 2014-15 financial year in various divisions of the Department to further enhance building safety, and would continue to liaise with the staff unions and monitor the operational and manpower needs of the Department. DS(P&L) added that of the 190 non-directorate civil service posts to be created in 2014-15, over half of them would be technical grade posts which would include posts for frontline staff. Moreover, BD would streamline its work procedures and re-prioritise its work to enhance efficiency and optimise the use of its manpower resources. BD would also adjust downwards the annual number of target buildings under MBIS and MWIS to allow more focused support to the implementation of the two schemes. Deputy Director of Buildings (DDB) advised that BD had re-organized its structure in 2011 with the launch of the multi-pronged approach to enhance building safety and the establishment of MBID, and continued to review its operational needs in the past three years. To relieve the workload of frontline staff, BD had engaged private consultancy companies to assist in implementing the MBIS and MWIS. BD would keep on reviewing its establishment having regard to its operational needs.

Implementation of the Mandatory Building Inspection Scheme and the Mandatory Window Inspection Scheme

42. Referring to the observations in the implementation of MBIS and MWIS set out in paragraphs 13 to 18 of EC(2013-14)15, Ms Emily LAU noted with concern that BD had seriously underestimated the workload arising from implementation of the schemes. She questioned whether the current staffing proposal could solve the problems mentioned in the Administration's paper given that BD could not even provide the revised targets for MBIS and MWIS in the paper.

43. DS(P&L) responded that MBIS and MWIS adopted the new approach of "prevention was better than cure" in tackling the issues of building safety and maintenance. He admitted that owing to the lack of relevant operational experience on the schemes which were unprecedented in terms of size of the building stock and the numbers of owners and practitioners in the building industry, BD was unable to accurately estimate the workload arising from the schemes. The huge number of public enquiries received and the demand for organizing additional briefings for the owners were also unexpected. Given the experience gained in implementing the two schemes in the past two years, BD considered that it would be practical to reduce the annual number of target buildings under the schemes, which would be set out in the relevant Controlling Officer's Report for the Estimates of Expenditure 2014-15. He added that the relevant assistant director in-charge of the two schemes had gained useful experience from implementing the schemes in the past two years which would help improve operation of the schemes in future.

44. Ms Starry LEE agreed to reduce the number of target buildings under MBIS and MWIS to alleviate pressure on building owners and frontline staff of BD. On the implementation of MWIS, she was aware of cases that while the inspection reports indicated no serious defects in the windows of the buildings, the qualified persons (QPs) recommended building owners to replace all windows in the buildings. Ms LEE considered that BD should look into the problem.

45. Mr KWOK Wai-keung echoed that MBIS and MWIS had caused confusion to the public and some contractors had exploited building owners by suggesting unnecessary works for the buildings. Mr KWOK stressed the need for BD to strengthen publicity on the schemes and provide more information to building owners to enhance their understanding about the schemes and enable them to protect their interests. Such information should include the circumstances and scenarios under which repair works should be carried out for buildings to comply with requirements of the schemes, the work procedures and codes of practice which building practitioners including

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registered inspectors (RIs), QPs and relevant contractors should follow in carrying out the inspection and repair works.

46. DDB responded that BD had established the respective technical committees to deal with technical issues arising from the implementation of MBIS and MWIS, which held regular meetings with the industry to discuss related issues such as safety standards in buildings and windows. BD would also issue relevant guidelines and practice notes as appropriate for reference and compliance by RIs, QPs and registered contractors in conducting works under the schemes. DDB stressed that BD would handle complaints against misconduct of RIs, QPs and registered contractors (including suggestions to carry out unnecessary repair works). He agreed that there was room for enhancing regulation of RIs and QPs, and stressed that they were subject to the control of the Buildings Ordinance (Cap. 123). Disciplinary actions would be taken against their misconduct where appropriate, which might include suspension and cancellation of their registration. The Administration took note of members' views on the need to strengthen publicity on the two schemes. It was among the duties of the GBS/GSE post to promote and explain the operations of the two schemes to the public.

47. Sharing the concern that some consultancy companies had taken advantage of MBIS and MWIS to make profits by suggesting building owners to carry out unnecessary repair works, Dr KWOK Ka-ki enquired whether the Administration would review the schemes to plug the loophole and how it would strengthen assistance to building owners. Dr KWOK considered it more appropriate for BD to submit its staffing proposal after completing a comprehensive review on the two schemes so that members could better grasp the manpower requirement for BD in considering the relevant staffing proposal.

48. DS(P&L) said that prior to introducing MBIS and MWIS, the Administration had conducted public consultation twice and the community in general supported the approach to tackle building neglect at source and enhance building safety in Hong Kong through "prevention is better than cure" measures which were enshrined under the two schemes. DS(P&L) pointed out that notwithstanding the commencement of the two schemes in June 2012, the first statutory notice was only issued in early 2013. As such, the two schemes only had a very short implementation period. BD had been closely monitoring the progress of implementation and it was understandable that adjustments were required to cater for operational needs of BD and to address concerns of building owners, for example, lowering the annual number of target buildings under the two schemes. DS(P&L) added that in the past two years, BD had conducted/attended over 200 briefing sessions/resident meetings on the two schemes. While the building owners and residents of



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the target buildings had raised concerns and a lot of enquiries about the schemes, DS(P&L) stressed that the schemes had aroused public awareness on the problem of building neglect and importance of enhancing building safety as well as helped to instill a preventive maintenance culture in the community. He cautioned that termination of the schemes could cause even more confusion to the community, in particular it should be noted that some 100 000 statutory notices had already been issued under the schemes. DS(P&L) reiterated that the annual targets of MBIS and MWIS would be adjusted as appropriate in the light of implementation of the schemes.

49. The item was voted on. Members agreed that the Subcommittee should recommend the item to FC for approval. Ms Emily LAU abstained from voting and remarked that the Democratic Party would further consider its position on the proposal. She said that she might request separate voting on the item at the FC meeting to be held on 7 February 2014, and if so she would inform the LegCo Secretariat accordingly.

**EC(2013-14)16      Proposed making permanent post of Chief Assessor (D1) in the Tax Treaty Section of the Inland Revenue Department with effect from 1 April 2014 and creation of one supernumerary post of Chief Assessor (D1) in the Stamp Office for a period of three years up to 31 March 2017 for the implementation of various initiatives in relation to tax treaties in Hong Kong**

50. The Chairman said that the Administration's proposal was to make one post of Chief Assessor (CA) (D1) in the Tax Treaty Section (TT Section) of the Inland Revenue Department (IRD) permanent with effect from 1 April 2014 for the implementation of various initiatives in relation to tax treaties in Hong Kong and create one supernumerary post of CA (D1) in the Stamp Office (SO) for a period of three years up to 31 March 2017 to cope with new legislative initiatives involving SO.

51. The Chairman advised that the Panel on Financial Affairs had been consulted on the proposal at its meeting on 4 November 2013. Panel members had no objection to the Administration submitting the proposal for consideration of the Subcommittee. Panel members had discussed the manpower situation in TT Section of IRD and SO, and the duties of the two proposed CA posts, including the target for conducting negotiations with jurisdictions for signing comprehensive avoidance of double taxation agreements (CDTAs) and how SO would handle the large number of

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outstanding stamp duty cases if the relevant Bills to address the overheated property market were passed by LegCo.

Justifications for creating the permanent Chief Assessor post in the Tax Treaty Section of the Inland Revenue Department

52. In response to Ms Emily LAU's enquiry about the justifications for converting the existing supernumerary CA post in TT Section of IRD into a permanent post, Commissioner of Inland Revenue (CIR) advised that the post was created in April 2011 for three years for taking forward the work in expanding Hong Kong's network of CDTAs. Since creation of the post, there had been surge in workload and increase in complexity of work relating to CDTAs. Moreover, the Organisation for Economic Co-operation and Development (OECD) had adopted the standard which required a jurisdiction to have both tax information exchange agreements (TIEAs) and CDTAs as instruments for exchange of information (EoI) with others. While the Administration's priority remained to expand Hong Kong's CDTA network, it was the international standard that preference for CDTA over TIEA could not be a reason for refusing to enter into an EoI agreement (be it a CDTA or a TIEA) with relevant partners. Hence, Hong Kong had to engage in TIEA negotiations with other jurisdictions which did not have interest in pursuing CDTAs with Hong Kong. The Administration also envisaged that there would be increasing workload in the implementation of CDTAs and TIEAs like handling of a rising number of EoI requests. The post holder also had to monitor international developments on taxation matters such as initiatives to enhance tax transparency. Deputy Secretary for Financial Services and the Treasury (Treasury)<sup>2</sup> (DS(Tsy)<sup>2</sup>) supplemented that the post concerned was created on a supernumerary basis in 2011 pending a review on the long-term requirement of the post in the light of international developments in taxation matters and initiatives. Given the Administration's target to further expand Hong Kong's network of CDTAs, the need for Hong Kong to fulfill its international obligation in TIEAs, increasing workload in the implementation of both CDTAs and TIEAs, as well as work relating to international tax cooperation and transparency, it was considered necessary to convert the supernumerary post into a permanent post. In particular, in the international arena, it was anticipated that OECD would put forward new initiatives relating to issues of EoI on an automatic basis, and tax base erosion and profit shifting. The proposed permanent CA post would need to closely monitor latest international developments and trends concerning tax cooperation, participate in relevant international fora for discussion of related issues, as well as oversee the various follow-up work.

53. Dr KWOK Ka-ki enquired about the trend in EoI requests received under CDTAs. As regards the participation at international fora on tax

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matters, Dr KWOK enquired whether it would be more appropriate for CIR or Deputy Commissioner of Inland Revenue (DCIR) instead of the proposed CA in TT Section to attend such events.

54. CIR responded that out of the 29 CDTAs signed between Hong Kong and other jurisdictions, 22 had already come into effect, and the rest were expected to come into effect from 2014-15 onwards. With the majority of 22 CDTAs taking effect in 2013-14 or after, IRD expected an increasing trend in the number of incoming EoI requests. For instance, IRD received 40 EoI requests for the nine-month period from April 2013 to December 2013. The number was higher than that for the whole year of 2012-13. Besides handling EoI requests, the proposed permanent CA post in TT Section was expected to be involved in a number of matters associated with the implementation of CDTAs, such as resolving disputes with CDTA partners under the Mutual Agreement Procedure provisions in a CDTA. There was also a lot of liaison and negotiation work with treaty partners on taxation matters like advance pricing arrangements which were necessary to avoid the conduct of transfer pricing audits on Hong Kong companies. On the attendance for international events relating to taxation matters, CIR said that while he or DCIR would attend large and important events as appropriate, the proposed permanent CA post in TT Section who possessed the relevant expertise would participate at working-level or technical meetings/fora of the Peer Review Group (PRG) of the Global Forum on Transparency and Exchange of Information for Tax Purposes, in which Hong Kong became a member since 2014. The PRG would hold meetings at least three times a year. In response to Dr KWOK Ka-ki's further enquiry, CIR pointed out that the incumbent of the CA post had five years of work experience on international taxation matters.

55. The Deputy Chairman enquired about the Administration's targets in conducting negotiations on CDTAs and TIEAs in 2014. CIR said that apart from the 11 jurisdictions mentioned in paragraph 5 of EC(2013-14)16 with which the Administration had engaged at various stages of CDTA negotiations, IRD would commence CDTA negotiation with another jurisdiction very soon. It was the Administration's target to conclude at least six CDTAs in 2014. The Administration also planned to commence TIEA negotiations with some jurisdictions, such as the United States.

Workload of the Chief Assessor post in the Stamp Office

56. Mr Martin LIAO declared that he was a member of the Board of Stewards of the Hong Kong Jockey Club (HKJC). Noting from paragraph 18 of EC(2013-14)16 that one of the justifications to create the CA post in SO was to implement the betting duty arrangement for two-way commingling for

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horse races in Hong Kong (the two-way commingling arrangement), Mr LIAO enquired why the said arrangement would generate workload for SO as he understood that two-way commingling for horse races would have no tax implications on betting duty, and also there would not be significant increase in the scope of outbound commingling, which was already subject to betting duty.

57. CIR responded that the Administration had liaised with HKJC in formulating the legislative proposal on the two-way commingling arrangement and working out relevant measures for implementing the initiative. The CA in SO had to oversee the implementation of the two-way commingling arrangement. DS(Tsy)2 supplemented that during the scrutiny of the Betting Duty (Amendment) Bill 2013, the Administration had, upon members' request, undertaken that the Home Affairs Bureau and SO would conduct a policy review on the implementation of the two-way commingling arrangement after it had been put into implementation for sometime. In response to the Deputy Chairman's enquiry, CIR remarked that the workload arising from the two-way commingling arrangement was not expected to be substantial. The bulk of the workload for the CA in SO would be generated from the implementation of other initiatives such as stamp duty treatment for Islamic bonds, stamp duty measures to address the overheated property market, etc.

58. The item was voted on. Members agreed that the Subcommittee should recommend the item to FC for approval.

59. The Deputy Chairman enquired whether it was necessary for the proposal to be voted on separately at FC meeting to be held on 7 February 2014. No members requested for the arrangement.

60. There being no other business, the meeting ended at 10:31 am.