

立法會
Legislative Council

LC Paper No. CB(4)431/15-16
(These minutes have been seen
by the Administration)

Ref: CB4/BC/3/14

Bills Committee on Kai Tak Cruise Terminal Bill

**Minutes of the second meeting held on
Tuesday, 24 November 2015, at 4:30 pm
in Conference Room 2B of the Legislative Council Complex**

- Members present** : Hon CHAN Kam-lam, SBS, JP (Chairman)
Hon James TO Kun-sun
Hon Andrew LEUNG Kwan-yuen, GBS, JP
Hon WONG Ting-kwong, SBS, JP
Hon Cyd HO Sau-lan, JP
Hon Alan LEONG Kah-kit, SC
Hon Frankie YICK Chi-ming, JP
Hon YIU Si-wing, BBS
Hon SIN Chung-kai, SBS, JP
Ir Dr Hon LO Wai-kwok, SBS, MH, JP
Hon Tony TSE Wai-chuen, BBS
- Members absent** : Hon WONG Kwok-kin, SBS
Hon Paul TSE Wai-chun, JP
Hon CHUNG Kwok-pan
- Public Officers attending** : **Agenda item II**

Commerce and Economic Development Bureau

Miss Rosanna LAW, JP
Deputy Commissioner for Tourism

Mr George TSOI
Assistant Commissioner for Tourism 4

Ms Carrie LEE
Senior Administrative Officer (Tourism)4

Department of Justice

Mr Henry CHAN
Senior Government Counsel (Acting)

Miss Queenie WU
Government Counsel

Clerk in attendance : Ms Debbie YAU
Chief Council Secretary (4)5

Staff in attendance : Ms Clara TAM
Assistant Legal Adviser 9

Ms Lauren LI
Council Secretary (4)5

Ms Zoe TONG
Legislative Assistant (4)5

Action

I. Confirmation of minutes of meeting

(LC Paper No. CB(4)230/15-16 — Minutes of meeting held on
20 October 2015)

The minutes of the meeting held on 20 October 2015 were confirmed.

II. Meeting with the Administration

(LC Paper No. CB(4)244/15-16(01) — List of follow-up action(s)
arising from the discussion at
the meeting on 20 October
2015

LC Paper No. CB(4)244/15-16(02) — Administration's response to
issue(s) raised at the meeting
on 20 October 2015

Action

- LC Paper No. CB(4)244/15-16(03) — Letter from the Assistant Legal Adviser to the Administration dated 20 November 2015
- LC Paper No. CB(3)828/14-15 — The Bill
- LC Paper No. CB(4)41/15-16(01) — Marked-up copy of related amendments to existing three items of subsidiary legislation prepared by the Legal Service Division (Restricted to members only)

Discussion

2. The Bills Committee deliberated (Index of proceedings attached at **Annex**).

Follow-up actions to be taken by the Administration

3. In addition to the issues raised in the letter from the Assistant Legal Adviser dated 20 November 2015 (LC Paper No. CB(4)244/15-16(03)), members requested the Administration to consider the following issues and provide its responses –

- (a) in respect of the term "on a commercial basis" under clause 5(1) of the Bill, whether the term "according to prudent commercial principles" used in section 6 of the Airport Authority Ordinance (Cap. 483) would be adopted instead, and if not, the reason(s);
- (b) the relationship among the Government, the terminal operator and the Commissioner for Tourism ("the Commissioner"), in particular the role of and statutory powers conferred to the Commissioner, as far as the tenancy agreement signed between the Government and the terminal operator for the operation and management of the Terminal was concerned; and
- (c) regarding the definition of "cruise ship" as set out in clause 2 of the Bill, whether "any other vessel approved by the Commissioner for the purpose of this Ordinance" could be deleted or amended so as not to include non-cruise vessel as "cruise ship".

(Post-meeting note: The Administration's written response was issued to members vide LC Paper No. CB(4)301/15-16(02) on 7 December 2015.)

III. Any other business

Date of next meeting

4. The Chairman advised that the next meeting of the Bills Committee would be held on Tuesday, 8 December 2015 at 2:30 pm.
5. There being no other business, the meeting ended at 6:30 pm.

Council Business Division 4
Legislative Council Secretariat
4 January 2016

**Proceedings of the second meeting of
the Bills Committee on Kai Tak Cruise Terminal Bill
on Tuesday, 24 November 2015, at 4:30 pm
in Conference Room 2B of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
Agenda item I – Confirmation of minutes of meeting			
000527 – 000550	Chairman	Confirmation of minutes of meeting	
Agenda item II – Meeting with the Administration			
000551 – 001158	Chairman Administration	Briefing by the Administration on its written response to issues arising from the meeting held on 20 October 2015 (LC Paper No. CB(4)244/15-16(02))	
001159 – 001823	Chairman Assistant Legal Adviser 9 ("ALA9")	Briefing by ALA9 on her letter to the Administration dated 20 November 2015 (LC Paper No. CB(4)244/15-16(03))	
001824 – 002803	Chairman Administration	The Administration provided its initial response to ALA9's letter on the use, operation, management and control of the Kai Tak Cruise Terminal ("KTCT"), as well as the authorization and delegation by the Commissioner.	
002804 – 003151	Chairman Mr SIN Chung-kai Administration	Discussion on the use of the term "on a commercial basis" in clause 5(1) of the Bill instead of "according to prudent commercial principles" as adopted in section 6 of the Airport Authority Ordinance (Cap. 483) Mr SIN Chung-kai considered that the Administration should provide the reason(s) for not using "according to prudent commercial principles". The Administration advised that the term "on a commercial basis" was meant to allow the terminal operator, being a private commercial entity, to charge fees beyond cost-recovery level from operating the KTCT.	The Administration to follow up as per paragraph 3(a) of the minutes
003152 – 003523	Chairman Mr Alan LEONG Administration	Discussion on the relationship among the Government, the terminal operator and the Commissioner regarding the tenancy agreement signed between the Government and the terminal operator Mr Alan LEONG was concerned about (i) the party responsible for awarding the tenancy agreement to the terminal operator; (ii) the role of the	The Administration to follow up as per paragraph 3(b) of the minutes

Time marker	Speaker	Subject(s)	Action required
		Commissioner in the tenancy agreement between the Government and the terminal operator, whether the Commissioner should be the Government's agent, authorized manager or any other role(s) as appropriate; and (iii) whether there was any express provision in the Bill stating the appointment of the Commissioner to the role mentioned in (ii). He further pointed out that if the power conferred to the Commissioner remained unclear, it might lead to difficulties in implementing the future Ordinance.	
003524 – 003620	Chairman ALA9 Administration	In reply to ALA9's concern about the control of vessels in the Terminal Area of KTCT within Hong Kong waters, the Administration advised that the management of Hong Kong waters would be governed by marine-related legislation.	
Clause-by-Clause Examination of the Bill			
003621 – 003810	Chairman Administration	Part 1 – Preliminary <u>Clause 1 – Short title</u> Members raised no query on the above clause.	
003811 – 004401	Chairman Administration Mr Alan LEONG	<u>Clause 2 – Interpretation</u> <i>"tenancy agreement"</i> Regarding Mr Alan LEONG's concern on the term "tenancy agreement", the Administration undertook to provide its written response later.	The Administration to follow up as per paragraph 3(b) of the minutes
004402 – 011444	Chairman Administration Mr SIN Chung-kai ALA9 Mr WONG Ting-kwong Mr Andrew LEUNG	<u>Clause 2 – Interpretation</u> <i>"cruise ship"</i> Regarding the term "cruise ship", Mr SIN Chung-kai – (a) expressed concern about the word "exclusively" used in the definition of "cruise ship", viz., "any vessel carrying or intended to be used to carry passengers exclusively for sightseeing or pleasure purposes ..." as he observed that some of these vessels also carried goods; and (b) queried whether it was appropriate for the definition of "cruise ship" to include "any other vessel approved by the Commissioner for the purposes of this Ordinance".	The Administration to follow up as per paragraph 3(c) of the minutes

Time marker	Speaker	Subject(s)	Action required
		<p>The Administration advised that in defining "cruise ship"–</p> <p>(a) the reference to carrying passengers exclusively for sightseeing or pleasure purposes was intended to highlight the main purpose of KTCT; and</p> <p>(b) the inclusion of "any other vessel approved by the Commissioner for the purposes of this Ordinance" was necessary to cater for some non-cruise events. For example, Logos Hope, a floating library berthed at KTCT in April 2014, and the christening cum cocktail reception of a new container vessel held at KTCT in November 2013.</p> <p>The Administration advised that it would provide a written response to ALA9's suggestion about adding a provision in the Bill, e.g. in clause 5, to empower the Commissioner to approve "any other vessels ... for the purposes of this Ordinance".</p>	
011445 – 011954	Administration Department of Justice Chairman ALA9	<p><u>Clause 2 – Interpretation</u></p> <p><i>"property manager"</i></p> <p>Discussion on amending the Chinese equivalent of "property manager" from "管理者" to "物業管理者" to reflect the nature of the property services to be provided</p>	
011955 – 013145	Chairman Mr SIN Chung-kai Administration Mr Tony TSE	<p><u>Clause 2 – Interpretation</u></p> <p><i>"terminal operator"</i></p> <p>In reply to Mr SIN Chung-kai's enquiry, the Administration advised that the terminal operator was responsible for engaging its own contractors for providing management services like cleaning in some 70% of the area of KTCT leased to it. The remaining 30% area, which included mainly government and communal facilities, was managed by property manager(s) hired by the Government.</p> <p>In response to Mr Tony TSE's enquiries, the Administration advised that –</p> <p>(a) control of marine traffic and security around the waters of KTCT were undertaken by the Marine Department and the Hong Kong Police Force respectively;</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>(b) designating the waters around KTCT as a permanent restricted area was to prevent unauthorized entry of other vessels for the sake of safety, and to safeguard against potential terrorist attacks; and</p> <p>(c) signages indicating the seaward restricted area would be posted at the apron which was around 20 metres above the sea level.</p>	
013146 – 013239	Chairman Administration	<p>Part 2 – The Terminal</p> <p><u>Clause 3 – Designation of Terminal</u></p> <p>Members raised no query on the above clause.</p>	
013240 – 014755	Chairman Administration	<p><u>Clause 4 – Use of Terminal</u></p> <p><u>Clause 5 – Operation and management of Terminal</u></p> <p><u>Clause 6 – Authorization and delegation by Commissioner</u></p> <p>Members noted that the Administration would provide a written reply to the matters related to the above clauses raised by ALA9 vide LC Paper No. CB(4)244/15-16(03).</p>	
014756 – 020103	Chairman Administration Mr Tony TSE Mr WONG Ting-kwong	<p>Part 3 – Access to Terminal Area</p> <p><u>Clause 7 – Access to and from and remaining in Terminal Area by persons</u></p> <p>Discussion on the power to enforce clause 7 of the Bill and the penalty</p> <p>The Administration advised that the access by any person or class of persons to the Terminal Area, or any part of it could be prohibited by the Commissioner or an authorized officer as defined in clause 2. The offence arising from contravention of clauses 7(1) or (2) would be a summary offence subject to a fine at level 1 (up to \$2,000). In reply to the Chairman's further enquiry, the Administration confirmed that the Bill was in conformity with the Basic Law, including the provisions concerning human rights.</p>	

Time marker	Speaker	Subject(s)	Action required
Agenda item III – Any other business			
020104 – 020116	Chairman	Date of next meeting	

Council Business Division 4
Legislative Council Secretariat
4 January 2016