

**立法會**  
**Legislative Council**

LC Paper No. CB(4)709/16-17  
(These minutes have been seen  
by the Administration)

Ref : CB4/PL/EDEV

**Panel on Economic Development**

**Minutes of policy briefing cum meeting  
held on Monday, 23 January 2017, at 10:00 am  
in Conference Room 3 of the Legislative Council Complex**

**Members present** : Hon Jeffrey LAM Kin-fung, GBS, JP (Chairman)  
Hon Alvin YEUNG (Deputy Chairman)  
Hon James TO Kun-sun  
Hon WONG Ting-kwong, SBS, JP  
Hon Starry LEE Wai-king, SBS, JP  
Hon CHAN Kin-por, BBS, JP  
Hon Paul TSE Wai-chun, JP  
Hon LEUNG Kwok-hung  
Hon Claudia MO  
Hon Michael TIEN Puk-sun, BBS, JP  
Hon Steven HO Chun-yin, BBS  
Hon Frankie YICK Chi-ming, JP  
Hon WU Chi-wai, MH  
Hon YIU Si-wing, BBS  
Hon MA Fung-kwok, SBS, JP  
Hon Charles Peter MOK, JP  
Hon CHAN Chi-chuen  
Hon Kenneth LEUNG  
Dr Hon KWOK Ka-ki  
Hon Dennis KWOK Wing-hang  
Hon Christopher CHEUNG Wah-fung, SBS, JP  
Dr Hon Fernando CHEUNG Chiu-hung  
Hon Martin LIAO Cheung-kong, SBS, JP  
Dr Hon CHIANG Lai-wan, JP  
Ir Dr Hon LO Wai-kwok, SBS, MH, JP  
Hon Jimmy NG Wing-ka, JP

Dr Hon Junius HO Kwan-yiu, JP  
Hon Holden CHOW Ho-ding  
Hon SHIU Ka-fai  
Hon CHAN Chun-ying  
Hon HUI Chi-fung  
Hon LUK Chung-hung  
Hon Jeremy TAM Man-ho  
Hon Nathan LAW Kwun-chung  
Dr Hon YIU Chung-yim

**Members attending :** Hon POON Siu-ping, BBS, MH  
Hon Tanya CHAN

**Members absent :** Hon Abraham SHEK Lai-him, GBS, JP  
Hon WONG Kwok-kin, SBS, JP  
Hon Mrs Regina IP LAU Suk-ye, GBS, JP  
Dr Hon Elizabeth QUAT, JP  
Hon CHUNG Kwok-pan  
Hon CHU Hoi-dick  
Hon Kenneth LAU Ip-keung, MH, JP  
Hon KWONG Chun-yu

**Public Officers attending :** Agenda item IV  
  
Mr Gregory SO, GBS, JP  
Secretary for Commerce and Economic  
Development  
  
Miss Cathy CHU, JP  
Commissioner for Tourism  
  
Mr Aaron LIU  
Deputy Commissioner for Tourism  
  
Mr Eddie LEE  
Assistant Commissioner for Tourism 1  
  
Mr Brendan AU  
Registrar of Travel Agents

Agenda item V

Mr Gregory SO, GBS, JP  
Secretary for Commerce and Economic  
Development

Ms Vivian SUM, JP  
Acting Permanent Secretary for Commerce and  
Economic Development (Commerce, Industry and  
Tourism)

Mr Godfrey LEUNG, JP  
Under Secretary for Commerce and Economic  
Development

Miss Cathy CHU, JP  
Commissioner for Tourism

Miss Erica NG, JP  
Deputy Secretary for Commerce and Economic  
Development (Commerce and Industry) 3

Agenda item VI

Mr WONG Kam-sing, GBS, JP  
Secretary for the Environment

Ms Christine LOH, JP  
Under Secretary for the Environment

Mr Vincent LIU, JP  
Deputy Secretary for the Environment

Agenda item VII

Professor Anthony CHEUNG, GBS, JP  
Secretary for Transport and Housing

Mr Joseph LAI, JP  
Permanent Secretary for Transport and Housing  
(Transport)

Mr YAU Shing-mu, JP  
Under Secretary for Transport and Housing

Ms Maisie CHENG, JP  
Director of Marine

Mr Simon LI, JP  
Director-General of Civil Aviation

Mr Wallace LAU  
Deputy Secretary for Transport and Housing  
(Transport) 4

Miss Joey LAM, JP  
Deputy Secretary for Transport and Housing  
(Transport) 5

Mr Andy YAU, JP  
Head (Airport Expansion Project Coordination  
Office), Transport and Housing Bureau

Agenda item VIII

Professor Anthony CHEUNG, GBS, JP  
Secretary for Transport and Housing

Mr Wallace LAU  
Deputy Secretary for Transport and Housing  
(Transport) 4

Mr CHIU Kwok-kit, JP  
Deputy Commissioner for Inland Revenue  
(Technical)

Mr Paul WONG  
Principal Assistant Secretary for Financial Services  
and the Treasury (Financial Services) 6

Ms Michelle CHAN  
Senior Assessor (Special Duties), Inland Revenue  
Department

**Clerk in attendance :** Ms Shirley CHAN  
Chief Council Secretary (4)5

**Staff in attendance :** Mr Stephen LAM  
Senior Assistant Legal Adviser 2 (Agenda item IV only)

Mr Bonny LOO  
Assistant Legal Adviser 4 (Agenda item IV only)

Ms Shirley TAM  
Senior Council Secretary (4)5

Ms Lauren LI  
Council Secretary (4)5

Cynthia TAM  
Legislative Assistant (4)9

Miss Mandy LUI  
Clerical Assistant (4)4

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Action

**I. Matter arising from the meeting on 13 December 2016**

(LC Paper No. CB(4)410/16-17(01) — Wording of a motion to be moved by Hon Nathan LAW Kwun-chung (Chinese version only)

LC Paper No. CB(4)410/16-17(02) — Wording of an amendment motion proposed by Hon Frankie YICK Chi-ming to amend the motion to be moved by Hon Nathan LAW Kwun-chung (Chinese version only))

The Chairman recapitulated that due to a quorum was not present, a motion moved by Mr Nathan LAW and an amendment proposed by Mr Frankie YICK on Mr LAW's motion could not be dealt with at the meeting

on 13 December 2016. The said motions were carried forward to be dealt with at this meeting.

2. The wording of Mr Nathan LAW's motion was as follows:

"兩電作為公共事業，有義務承擔社會責任，幫助基層社群。過去，兩電有一些援助基層政策，如提供長者及單親家庭電費補貼、「全城過電」計劃等，值得嘉許。但香港仍有許多住戶仍陷於「能源貧窮」，經濟上難以負擔家庭能源開支，苦不堪言。故此，本會促請兩電採取適合措施，協助他們渡過難關，如增加惠及低收入人士及劏房戶的電費補貼、修改《供電則例》以阻嚇業主濫收電費等，以改善劏房戶面對高昂電費的問題。"

(Translation)

"That, the two power companies, as public utilities, are obliged to take up social responsibilities and help grass-roots communities. In the past, the two power companies launched some policies to help the grass-roots, such as provision of subsidies on electricity charges for the elderly and single-parent families, and the "Power Your Love Programme", which are commendable. However, many households in Hong Kong are still suffering from "energy poverty", meaning that they are financially unable to afford domestic energy costs and therefore in a dire situation. In this connection, this Panel urges the two power companies to adopt appropriate measures to help them tide over the difficulties, such as increasing the subsidies on electricity charges for low-income earners and tenants of sub-divisions of flat units, and amending the Supply Rules to deter landlords from overcharging tenants of sub-divisions of flat units for use of electricity so as to ameliorate the problem of expensive electricity charges faced by these tenants."

3. Mr Frankie YICK proposed an amendment to the above motion by replacing words (shown in bold and italic type) as follows –

"兩電作為公共事業，有義務承擔社會責任，幫助基層社群。過去，兩電有一些援助基層政策，如提供長者及單親家庭電費補貼、「全城過電」計劃等，值得嘉許。但香港仍有許多住戶仍陷於「能源貧窮」，經濟上難以負擔家庭能源開支，苦不堪言。故此，本會促請~~兩電~~***兩電政府***採取適合措施，協助他們渡

過難關，如增加惠及低收入人士及劏房戶的電費補貼、修改《供電則例》以阻嚇業主濫收電費等，以改善劏房戶面對高昂電費的問題。 ”

(Translation)

"That, the two power companies, as public utilities, are obliged to take up social responsibilities and help grass-roots communities. In the past, the two power companies launched some policies to help the grass-roots, such as provision of subsidies on electricity charges for the elderly and single-parent families, and the "Power Your Love Programme", which are commendable. However, many households in Hong Kong are still suffering from "energy poverty", meaning that they are financially unable to afford domestic energy costs and therefore in a dire situation. In this connection, this Panel urges the ~~two power companies~~ **Government** to adopt appropriate measures to help them tide over the difficulties, such as increasing the subsidies on electricity charges for low-income earners and tenants of sub-divisions of flat units, and amending the Supply Rules to deter landlords from overcharging tenants of sub-divisions of flat units for use of electricity so as to ameliorate the problem of expensive electricity charges faced by these tenants."

4. The Chairman said that the Panel would first vote on the amendment proposed by Mr Frankie YICK. If the amendment was voted down, the original motion proposed by Mr Nathan LAW would be put to vote. The Chairman put the amendment to vote. As a majority of members present at the meeting voted for the amendment, the Chairman declared that the amendment was carried.

*(Post-meeting note: The Administration's response to the motion was issued to members vide LC Paper No. CB(4)576/16-17(01) on 17 February 2017.)*

## II. Information papers issued since the last meeting

(LC Paper No. CB(4)316/16-17(01) — Letter from Hon SHIU Ka-chun dated 14 December 2016 on withdrawal of membership (Chinese version only)

- LC Paper No. CB(4)349/16-17(01) — Submission from the Tsuen Wan District Council dated 19 December 2016 suggesting amendment to the Port Control (Cargo Working Areas) Ordinance (Cap. 81) (Chinese version only)
- LC Paper No. CB(4)362/16-17(01) — Administration's response to the letter from Hon Jeremy TAM Man-ho dated 8 December 2016 on issues relating to the old and the new Air Traffic Control Systems as set out in LC Paper No. CB(4)289/16-17(01)
- LC Paper No. CB(4)384/16-17(01) — Letter from Dr Hon Helena WONG Pik-wan dated 3 January 2017 on withdrawal of membership (Chinese version only)
- LC Paper No. CB(4)388/16-17(01) — Administration's paper on tables and graphs showing the import and retail prices of major oil products from December 2014 to November 2016
- LC Paper No. CB(4)443/16-17(01) — Letter from Hon Wilson OR Chong-shing dated 17 January 2017 on withdrawal of membership (Chinese version only))

5. Members noted the above papers issued since the last regular meeting.



### **III. Items for discussion at the next meeting**

(LC Paper No. CB(4)410/16-17(03) — List of outstanding items for discussion

LC Paper No. CB(4)410/16-17(04) — List of follow-up actions)

6. Members agreed to discuss the following items at the next regular meeting scheduled for Monday, 27 February 2017 at 10:00 am –

(a) Hong Kong Tourism Board Work Plan for 2017-2018;

(b) Update on Hong Kong Disneyland Resort; and

(c) Amendments to the Civil Aviation (Aircraft Noise) (Certification) Regulations (Cap. 312A) and the Hong Kong Air Navigation (Fees) Regulations (Cap. 448D).

### **IV. Travel Industry Bill**

(LC Paper No. CB(4)253/16-17(13) — Administration's paper on the key legislative proposals of Travel Industry Bill

LC Paper No. CB(4)253/16-17(14) — Paper on the new regulatory regime for the tourism sector in Hong Kong prepared by the Legislative Council Secretariat (updated background brief))

#### Presentation by the Administration

7. At the invitation of the Chairman, Secretary for Commerce and Economic Development ("SCED") briefed members on the key legislative proposals of the Travel Industry Bill ("the Bill"). Details were set out in the Administration's paper (LC Paper No. CB(4)253/16-17(13)).

#### Declaration of interest

8. Mr Paul TSE declared that he was the owner and licensee of a travel

agent in Hong Kong. Mr YIU Si-wing declared that he was a member of the senior management of a travel agent. The Chairman declared that he was a shareholder and board member of a travel agent.

## Discussion

### *The new licensing and regulatory regime*

9. Noting that tourist guides and tour escorts mainly followed travel agents' instructions whilst working, Mr Holden CHOW enquired what could constitute a defence for tourist guides and tour escorts who faced criminal prosecutions arising from following the instructions of the travel agents concerned when the new regulatory regime came into force, and whether whistleblowers could be exempted from criminal responsibility.

10. SCED advised that under the new regulatory regime, the Travel Industry Authority ("TIA") would require by administrative means that a travel agent must formulate for distribution to its tourist guide/tour escort a job sheet for each tour group received to clearly state the specific tasks and duties of the tourist guide/tour escort. He also advised that the codes of conduct and/or guidelines of TIA would, among other things, require tourist guides to inform the relevant enforcement agencies and TIA upon noticing any tourist being coerced into making purchases so that such malpractices of the trade could be combatted. Mr Holden CHOW urged the Administration to well inform tourist guides and tour escorts of their responsibility to blow the whistle under the new regulatory regime before the enactment of the new legislation.

11. Noting that a disciplinary committee would be set up under the new regulatory regime, Mr Holden CHOW enquired about the different types of the misconduct handled by the court and the disciplinary committee respectively. Mr Kenneth LEUNG was also concerned about the division of responsibilities between the court and the disciplinary committee. The Commissioner for Tourism ("C for T") advised that if a case/complaint involved a person suspected to have committed a criminal offence under the new ordinance, after TIA's investigation, it would be passed to the Department of Justice for considering whether to initiate criminal prosecution in accordance with the established practice for trial in the court. TIA would also impose disciplinary orders upon licensees who committed offences through disciplinary proceedings. On the other hand, if a case/complaint involved a licensee suspected to have breached any directives, codes of conduct or guidelines, it would be followed up by TIA through disciplinary proceedings only.

12. In response to Mr Kenneth LEUNG's enquiry, SCED advised that tourist guides/tour escorts applying to TIA for licences did not necessarily have to be affiliated with travel agents. C for T advised that the licensing of tourist guides/tour escorts would be based on their experience and qualifications, instead of their mode of employment.

13. Noting that, under the Bill, the maximum penalty levels for travel agent carrying on business without a licence, cooperating with an unauthorized Mainland organizing agent or breaching a licensing condition were on par with those under the Travel Agents Ordinance (Cap. 218) at present, the Deputy Chairman enquired about the effectiveness of the existing legislation and penalty in combating such misconduct, and whether the Administration would consider raising the penalty levels in the new legislation to strengthen the deterrent effect. SCED advised that the new legislation would clearly state the functions and powers of TIA and vest TIA with sufficient powers in discharging its regulatory functions.

14. The Chairman enquired about the appeal mechanism of the new licensing regime as well as the inspection and investigation conducted by TIA. He also worried that some individuals might take advantage of tourist guides/tour escorts/travel agents by making false allegations against the latter parties under the new regulatory regime. The Chairman suggested that TIA should formulate clear guidelines regarding the handling of complaints.

15. SCED advised that under the Bill, an independent appeal panel would be set up to handle appeals against disciplinary orders and TIA's decisions through hearings. To ensure the independence and impartiality of the appeal panel, public officers, or members of TIA or the disciplinary committee, would not be eligible to serve as panel members. He envisaged that TIA would establish a clear mechanism to handle complaints against tourist guides/tour escorts/travel agents.

16. While welcoming the introduction of the new regulatory regime to combat the unscrupulous business practices of some travel trade members, Mr Paul TSE opined that excessive regulation might affect the livelihood of tourist guides, in particular freelance tourist guides who enjoyed greater flexibility and earned more income during peak seasons. The Administration should strike a balance between regulation of the trade and livelihood of frontline practitioners. In addition, Mr TSE sought the Administration's explanation for the delay in the introduction of the Bill, which should have been introduced to the Legislative Council ("LegCo") in the Fifth LegCo.

17. SCED advised that since the special resolution supporting that the Travel Industry Council ("TIC") discharged certain non-regulatory functions under the new regime was not passed at the Extraordinary General Meeting of TIC in 2014, the original proposal had to be revised. It also took time for the Administration to review and work out measures to combat certain trade malpractices like coerced shopping and cases of non-compliance arising from the "non-co-operation movement" when drafting the Bill.

18. Mr POON Siu-ping relayed the concern of certain trade unions of frontline practitioners that frontline practitioners might easily breach the new law inadvertently if the relevant provisions about coerced shopping were not clearly written. He requested the Administration to explain to the related trade unions details of the requirements of the new regulatory regime, and the new codes of conduct and guidelines once they were formulated by TIA. He also sought information on the arrangement of the consultation conducted with trade unions of frontline practitioners.

19. Mr YIU Si-wing stated that the travel trade was positive towards the Bill. To gain the support from the trade on the new regulatory regime, he urged the Administration to continue to listen to the views of the trade and make suitable adjustments where necessary.

20. SCED advised that consultation with the travel trade on the review of the operation and regulatory framework of the tourism sector had been conducted in 2011. The Administration had since been maintaining dialogue with the trade when formulating legislative proposals and would be prepared to discuss with the trade further on the Bill in future. C for T added that the Administration had recently met with various organizations of travel agents, tourist guides and tour escorts to explain the key legislative proposals formulated. She welcomed further meetings with them when necessary.

21. Mr LUK Chung-hung said that the Federation of Trade Unions supported the establishment of TIA which would help combat cases of non-compliance in the trade, thus maintaining the tourism reputation of Hong Kong. He expressed grave concern about the seriousness of the "false self-employment" problem among tourist guides and tour escorts in the travel industry. To protect the interests of frontline practitioners, he demanded that the Bill should clearly stipulate the employment relationships between travel agents and tourist guides/tour escorts to ensure the rights of the parties concerned, in particular employees' rights to the mandatory provident fund, labour insurance coverage and holiday entitlements.

22. SCED advised that under the new regulatory regime, TIA would require by administrative means that a service agreement be signed between a travel agent and a tourist guide/tour escort. He also advised that existing labour legislation would deal with the general matters on the relationship between employers and employees.

23. Ms Starry LEE was concerned about the nuisance to local residents caused by businesses, for example eateries and retail shops, serving the inbound zero/low-fare tour groups. Ms LEE enquired if appropriate measures, for example a points system, could be devised and included in the Bill or the new licensing regime to monitor such businesses so that the nuisance caused could be minimized. SCED responded that the matter should more appropriately be followed up by TIA through administrative means. Ms LEE remained of the view that the Administration should explore ways to tackle the problem through legislative means.

*Regulation of on-line travel agents*

24. Referring to the Administration's proposal in regulating certain on-line travel agents by requiring them to obtain a travel agent licence, the Deputy Chairman enquired about the specific measures to implement such a proposal, and questioned the practicality in regulating such travel agents since some of them were operating outside Hong Kong. Mr CHAN Chi-chuen shared a similar concern.

25. Mr Paul TSE also queried the effectiveness of the Administration in regulating on-line travel agents under the new regulatory regime, given that prices and convenience were always the major considerations of consumers in making purchasing decisions.

26. SCED replied that it was not easy to regulate on-line travel agents but the proposed regulation of such sought to protect the rights of Hong Kong consumers. C for T advised that, as an example, for on-line travel agents operating on the Mainland, information about any on-line travel agents on the Mainland that were considered unlicensed under the new legislation would be referred to the China National Tourism Association to seek its assistance in follow-up. As for on-line travel agents operating overseas, efforts would be made to try to contact the relevant tourism authorities. C for T stressed the importance of both law enforcement and consumer education in the regulation of on-line travel agents, and advised that TIA would publish up-to-date lists of licensed travel agents (no matter operating on-line or with physical presence) from time to time to assist local consumers in ascertaining and choosing licensed travel agents.

27. Mr CHAN Chi-chuen asked if any large on-line travel services providers had proactively applied for a travel agent licence with the Administration. Referring to the example of Taiwan in regulating on-line travel agents that relevant authority was empowered to remove the mobile app of the travel agent which had breached the condition(s) of the licence from the app stores, Mr CHAN enquired if TIA had similar statutory powers as the authority in Taiwan. Mr CHAN further asked if the Administration would initiate criminal proceedings in overseas jurisdictions if the licence of an on-line travel agent operating overseas had to be revoked.

28. SCED advised that TIA would consider various factors, such as whether the publicity was targeted at Hong Kong citizens, and whether the advertisements were made through Hong Kong media, in determining if the on-line travel agents actively marketed travel services to the public of Hong Kong and accordingly should come under the regulatory regime of Hong Kong. He also advised that the proposed regulation of on-line travel agents sought to protect the consumer rights of Hong Kong citizens. The Administration would try its best to explain the new regulatory regime to the on-line travel agents concerned. When asked by Mr WONG Ting-kwong if the Administration was empowered to remove the websites of the unlicensed on-line travel agents under the new regulatory regime, C for T advised in the negative.

#### *The Travel Industry Authority*

29. As regards the proposed seed money to support TIA's initial operation, Mr WONG Ting-kwong enquired if the Administration had taken into consideration the impact of filibustering on its schedule in applying for approval of funds from the Finance Committee ("FC") of LegCo. He expressed concern about a further delay in the establishment of TIA caused by filibuster. SCED advised that TIA was expected to be established in 2018-2019 the earliest, and that the Administration would submit a funding proposal to LegCo for the establishment of TIA in due course. He appealed to members to support the Bill and the related funding proposal.

30. Regarding the financial arrangements of TIA, Mr WONG Ting-kwong enquired about the basis for TIA's decision to maintain the charging levels of its major sources of revenue, including the levies charged on outbound tours and licence fees of travel agents, tourist guides and tour escorts, for five years upon the full implementation of the new ordinance. In response, SCED advised that the one-off seed money to be provided for TIA helped secure such a proposal.

Moreover, the Administration also proposed increasing the registration fees for inbound tours from the Mainland with different rates prescribed based on the numbers of members in a tour.

31. Mr WONG Ting-kwong followed up by asking how the levies mentioned and the registration fees for Mainland inbound tours would be collected from on-line travel agents. SCED replied that while it could be difficult to undertake enforcement if on-line travel agents were outside Hong Kong, the Administration would further contact them to map out the detailed arrangements.

32. Referring to sources that there would only be two representatives of frontline practitioners serving as members of TIA, Mr LUK Chung-hung enquired if the number of TIA members representing the frontline practitioners could be increased. SCED advised that the Administration was open as regards the composition of TIA, and would continue to gauge the views of the trade on the matter.

*Other issues*

33. Estimating that TIA would be established in around three years' time, and noting that TIC would still be the major regulatory body of the travel trade before the establishment of TIA, Mr YIU Si-wing enquired about the measures to be devised by the Administration for a smooth transition from the existing regulatory regime to the new one, in particular the transition of some 50 staff members of TIC, and measures to facilitate the work of TIC in combating the "non-co-operation movement" during the transitional period.

34. SCED advised that TIC would continue to duly undertake its trade regulatory functions before the implementation of the new regulatory regime.

35. Mr LUK Chung-hung said that it was undesirable that the tour escorts of some low-fare outbound tours left the tour group after members of the tours had assembled at certain checkpoints. In response, SCED advised that consumers might have different requirements and that there was no consensus in the trade in requiring all outbound tours to be accompanied by tour escorts.

36. On Mr Frankie YICK's enquiry about the progress of the Hong Kong, China-Association of Southeast Asian Nations Free Trade Agreement ("FTA") negotiations, SCED advised that the relevant negotiations would be substantially completed before March 2017. It would be beneficial for the

trading industry in Hong Kong if FTA was forged since Hong Kong would be able to participate in the Regional Comprehensive Economic Partnership by then.

Conclusion

37. The Chairman invited the Administration to take note of the views and concerns expressed by members at the meeting.

Motion moved by Mr LUK Chung-hung

38. Mr LUK Chung-hung proposed the following motion which was seconded by Mr WONG Ting-kwong –

"鑑於旅遊業內導遊及領隊「假自僱」的情況嚴重，從業員長期以來無法享有僱員合理權益，並擔心《旅遊業條例》日後會令他們有責無權，有實無名；本委員會敦請政府當局向立法會提交《旅遊業條例草案》時，明確規管旅行社和導遊及領隊之間的僱傭關係，以確保他們享有僱員合理權益，包括勞工保險的保障。"

(Translation)

"That, given the seriousness of 'false self-employment' problem among tourist guides and tour escorts in the travel industry, practitioners have long been unable to enjoy their legitimate rights as employees, and they are worried that they will be entrusted with responsibility but not given due protection under the Travel Industry Ordinance in future and they have to act without the proper status, this Panel urges the Administration, upon introduction of the Travel Industry Bill into the Legislative Council, to clearly regulate the employment relationships between travel agents and tourist guides, and between travel agents and tour escorts, so as to ensure that they are entitled to the legitimate rights of employees, including labour insurance coverage."

39. Mr YIU Si-wing proposed an amendment to the above motion by replacing words (shown in bold and italic type) as follows –

"鑑於旅遊業內導遊及領隊「假自僱」的情況嚴重，從業員長期以來無法享有僱員合理權益，並擔心《旅遊業條例》日後



會令他們有責無權，有實無名；本委員會敦請政府當局向立法會提交《旅遊業條例草案》時，明確規管旅行社和導遊及領隊之間的僱傭關係，以確保 ~~他們享有僱主及僱員~~ 合理權益，包括勞工保險的保障。"

(Translation)

"That, given the seriousness of the 'false self-employment' problem among tourist guides and tour escorts in the travel industry, practitioners have long been unable to enjoy their legitimate rights as employees, and they are worried that they will be entrusted with responsibility but not given due protection under the Travel Industry Ordinance in future and they have to act without the proper status, this Panel urges the Administration, upon introduction of the Travel Industry Bill into the Legislative Council, to clearly regulate the employment relationships between travel agents and tourist guides, and between travel agents and tour escorts, so as to ensure that *they employers and employees* are entitled to *the their* legitimate rights *of employees*, including labour insurance coverage."

40. The Chairman ruled that the proposed motion and the amendment were directly related to the agenda item under discussion, and members agreed that the motion and the amendment should be dealt with at the meeting. The Chairman said that the Panel would first vote on the amendment proposed by Mr YIU Si-wing. If the amendment was voted down, the original motion proposed by Mr LUK Chung-hung would be put to vote.

41. The Chairman put the amendment to vote. As a majority of members present at the meeting voted for the amendment, the Chairman declared that the amendment was carried.

## V. Briefing by the Secretary for Commerce and Economic Development on the Chief Executive's 2017 Policy Address

(LC Paper No. CB(4)410/16-17(05) — Administration's paper on 2017 Policy Address — Policy Initiatives of the Commerce, Industry and Tourism Branch, Commerce and Economic Development Bureau)

Presentation by the Administration

42. At the invitation of the Chairman, SCED briefed members on the policy initiatives of the Commerce, Industry and Tourism Branch of the Commerce and Economic Development Bureau ("CEDB").

(*Post-meeting note:* The speaking note of SCED was issued to members vide LC Paper No. CB(4)472/16-17(01) on 23 January 2017.)

Discussion

*Tourism performance*

43. Mr Michael TIEN declared that he was engaged in the retail sector. He expressed concern that during the current Government term, although the local Gross Domestic Product ("GDP") had recorded a double-digit growth cumulatively, the total retail sales had dropped as a result of, among others, the decrease of Mainland visitor arrivals. To help revive the tourism and in turn the retail performance, he urged the Government to address his repeated calls for suggesting to the Mainland authorities, on the premise of introducing a quota system, the inclusion of more Mainland cities in the Individual Visit Scheme ("IVS") which currently only covered 49 Mainland cities.

44. SCED pointed out that the downturn of tourism arrivals was caused by a number of external factors in recent years, including intensifying regional competition posed by neighbouring tourist destinations as a result of the depreciation of their currencies against US dollars and their relaxation of visa requirements for Mainland tourists. In considering the suggestion of expanding IVS, the Government should adopt a prudent manner having regard to the impact of the tourism industry on Hong Kong's economy and the livelihood of the community. The Government had reflected to the Central Government the views of different local sectors on overall arrangement for Mainland residents travelling to Hong Kong, and would maintain close liaison with it on this matter.

45. The Chairman urged the Administration to continue to strive for the Mainland's support on expanding IVS. SCED said that the Government would continue its work on this matter. However, it was important to strike a balance among the interests of different local sectors. In response to the Chairman's suggestion on facilitating entry to Hong Kong by Mainland visitors who held electronic passports, SCED said that the Government would continue to study the proposal.

46. The Deputy Chairman noted that in respect of the tourism performance, non-Mainland visitor arrivals had made a 3% year-on-year growth in 2016. He enquired about the source markets of these visitors as well as the promotional strategies devised for them. SCED said that the Hong Kong Tourism Board had allocated about 76% of its marketing budget to international markets, including India, Japan, the South Korea and Taiwan. Among the remaining budget allocated to the Mainland market, 80% of it was targeted for non-Guangdong areas to attract more overnight visitors with higher per head spending.

47. Dr CHIANG Lai-wan suggested the Administration enact a dedicated legislation to govern home-stay lodgings and youth hostels so as to offer an alternative travel experience which was highly attractive to young people. SCED said that this suggestion needed careful consideration. To ensure the safety of visitors, any kind of tourist accommodation facilities, including those premised on the concept of "home-stay lodgings", should be regulated under the current law.

*Tourism events and attractions*

48. The Deputy Chairman asked further about the tourism products planned for launching, such as the FIA Formula E Hong Kong ePrix ("Formula E Event").

49. SCED responded that the Formula E Event would take place in Hong Kong again in 2017, with its scale to be adjusted, similar to the arrangement of Hong Kong Wine and Dine Festival. In addition, in the long run, he was looking forward to expanding the scale of the home-grown Hong Kong Cyclothon so that it would become an Asia's celebrated brand event as well as a mega event within the Pearl River Delta ("PRD") region when the Hong Kong-Zhuhai-Macao Bridge ("HZMB") was completed.

50. Dr CHIANG Lai-wan said that during the Formula E Event held in 2016, some blocking screens were set up at the spots where spectators congregated so as to block views from non-ticket holders. She commented that such arrangement was unnecessary and had kept the public from enjoying the event which should be avoided in future.

51. SCED said that he would relay Dr CHIANG's views to the organizer for consideration. He further explained that the setup of blocking screens during the event was to address the safety concerns on crowd control at certain spots.

In addition, the organizer had made heavy investment in the event which should be addressed. Apart from the spectator stands, members of the public might also buy tickets for the eVillage in order to enjoy the event excitement.

52. Expressing support for the event, Mr Jeremy TAM suggested the event organizer introduce other support races, such as electricbike race or even off-road electricbike race, on the same or new racetracks during the Formula E Event in 2017. SCED agreed to convey his suggestions to the event organizer.

53. Mr Jeremy TAM also welcomed the Government's continuous support on the Ocean Park's development. However, he was concerned about the park keeping ocean animals in captivity which would deprive them of freedom for the rest of their life. He considered that the park should reduce such acts, and suggested closing the Ocean Theatre even though the performances staged by the captive animals were well received by guests. SCED said that the Ocean Park was also concerned about animal care and welfare and he would relay Mr TAM's views to the park's management.

54. Mr YIU Si-wing expressed grave concern on the drop of visitor arrivals in recent years which had induced a knock-on effect on the retail and catering sectors. Noting the news that the Administration had planned to allocate more resources for the tourism events under the 2017 Policy Address, he sought more information on this matter.

55. SCED said that under the 2017 Policy Address, the Government had planned to allocate \$100 million for revamping the Symphony of Lights and another \$100 million for developing local mega events in three years' time. C for T supplemented that this funding allocation would be a 3-year initiative to enhance the continuity in cultivating Asia's celebrated brand events over the period, and such funding arrangement would be separated from those one-off measures devised under the annual Budgets.

56. Mr YIU Si-wing also asked about the details of the Kai Tak Tourism Node ("Tourism Node") project, under which the former Kai Tak Runway tip would be developed into a world-class tourist and leisure attraction. He expressed concern about the difference between this project and the Kai Tak Fantasy project, and the development progress of the latter.

57. C for T explained that the 5.93-hectare Tourism Node was a part of the Kai Tak Fantasy, which occupied a total of 90 hectares of land and also covered Kwun Tong Action Area and the Kwun Tong Typhoon Shelter.

The Government had previously launched an expression of interest exercise for the development of the Kai Tak Fantasy and it would made reference to the views received in taking forward the tendering arrangement. SCED added that the arrangement for the tendering exercise for the Tourism Node would be announced in 2017. In response to Mr Jeremy TAM, SCED said that the Tourism Node would be located next to the current Kai Tak Runway Park.

*Competition matters*

58. Dr YIU Chung-yim noted that the Competition Commission ("the Commission") had published an advisory bulletin in November 2016 calling upon two professional associations to remove or amend certain provisions in their respective codes of conduct which raised competition concerns. He was worried that the Commission's views had placed the members of these associations in a dilemma, as they were required to comply with the law as well as the respective codes of conduct so as to maintain the professional qualifications. He doubted why the Commission did not touch base with these bodies to solve the matter in advance and how this matter would be taken forward.

59. SCED said that the Commission was responsible for promoting competition and it should take actions against any anti-competitive behaviours across the board. He believed that the Commission had made sufficient exchanges with the professional associations concerned on relevant matters before releasing the said advisory bulletin. He also urged these associations to rectify the practices concerned to comply with the law. Dr YIU requested the Administration to relay his grave concern on this issue to the Commission.

60. Mr Frankie YICK said that the logistics sector had raised a request to the Commission since December 2015 for the investigation against the suspected price-fixing activities of the oil industry. Noting that this investigation was still in progress, he urged the Administration to follow up with the Commission to enhance an effective implementation of the Competition Ordinance (Cap. 619) ("the Ordinance"). Dr CHIANG Lai-wan shared a similar concern.

61. SCED said that the public could raise its concerns on a suspected anti-competitive behaviour to the Commission under its complaint mechanism and the Commission would conduct investigations as appropriate. He understood that the Commission was still studying the issues relating to auto-fuel prices and this Panel would be briefed on the latest progress at a forthcoming meeting.

62. Mr Frankie YICK also remarked that on block exemption matters, the cooperative agreements among shipping liners were widely exempted by many major economies under their competition laws. In respect of Hong Kong, the Commission tended to consider granting block exemptions only for vessel sharing agreements among liners but had reservations to exempt the voluntary discussion agreements under the Ordinance. He pointed out that if the latter were not exempted, it would have a large impact on the competitiveness of the shipping industry of Hong Kong and in turn the local economy. To this end, he urged CEDB to discuss with the Commission on this matter taking into consideration the industry's concern.

63. SCED said that the Commission would strike a well balance between the industry's views as well as the competition principles in considering the exemptions. CEDB and the Transport and Housing Bureau ("THB") had been in liaison on this matter and the Government would continue to keep in view the development.

64. The Chairman said that the Ordinance had been in operation for over a year since its full commissioning in December 2015. He asked whether the Administration would consider amending the Ordinance taking into account the operational experience of the Commission. In addition, he suggested the Commission prepare separate guidelines for different sectors so as to enhance their compliance with the law.

65. SCED replied that the Commission would consider making a specific guideline when there was a sound reason, and it was difficult for it to tailor-make compliance guidelines for each industry. In any case, different sectors might voice out their needs and justifications for a specific guideline and the Government would consider the request with the Commission as appropriate. In respect of the Ordinance, it was too early to consider amending its provisions at this stage.

66. The Deputy Chairman urged the Administration to review as early as possible the cost-effectiveness of the work of the Commission, as well as the adequacy of financial resources allocated to it for litigation purposes. Sharing a similar view, Mr Dennis KWOK suggested setting up a litigation war chest to provide separate funding to the Commission should the need for investigation and litigation arise. He also called on the Administration to discuss this matter with the Commission at full pace.

67. SCED responded that the Government acknowledged the fact that the litigation cost of a court case could be substantially high. However, without an actual case on hand, it was difficult to estimate the resources required for this purpose. The Government had been in close contact with the Commission on this matter and would observe the development. In addition, the Government was open to the suggestion of setting up a litigation war chest and it would consider it in the real situation.

## **VI. Briefing by the Secretary for the Environment on the Chief Executive's 2017 Policy Address**

(LC Paper No. CB(4)410/16-17(06) — Administration's paper on 2017 Policy Address — Policy Initiative of the Environment Bureau: Energy)

### Discussion

#### *Matters relating to electricity supply*

68. Dr KWOK Ka-ki considered that the current Scheme of Control Agreements ("SCAs") between the Government and the two power companies were favourable to the latter, such as providing a high permitted rate of return ("RoR") to them and pegging it to their assets so that they could maximize their returns by increasing capital expenditure as well as reserve capacity. Given that the current SCAs would expire in 2018, he called on the Government to ensure that public interests would be safeguarded in the new SCAs, even though the tenure of the current Government would end in June 2017. In particular, Dr KWOK urged the Administration to devise measures to reduce their capital expenditure, such as developing central facilities (including power generating units, and fuel storage and distribution facilities) and renting them to the power companies.

69. Mr LEUNG Kwok-hung shared the concern on the continuity of the Administration's policy on relevant matters. He also asked about the basis for coming up the new permitted RoR and the timetable for implementing segregation of generation business from the transmission and distribution business. He queried if a fallback plan was available if the Government and two power companies could not reach agreement on the new SCAs at the end.

70. Secretary for the Environment ("SEN") said that the Administration had conducted a public consultation on future development of the electricity market in 2015 ("2015 Consultation") covering the future regulatory arrangement for the power companies. He assured that both the current- and next-term Governments would take forward the SCA negotiation with the power companies having regard to the mainstream public opinions received during that consultation. He added that any proposals on the development of fuel receiving facilities could be considered outside the scope of the SCAs.

71. On the negotiation timetable, Deputy Secretary for the Environment ("DSEN") said that there would be about two years before expiry of the current SCAs in late 2018, which should be sufficient for negotiation with the power companies. Currently negotiation was still in progress and it was not practicable to advise an exact completion time.

72. Mr Holden CHOW expressed concern that the power companies had been deploying financial tactics and driving up the basic tariffs by raising the capital expenditure, which sometimes cancelled out the drop of fuel clause charge ("FCC") and led to persistently high tariffs. In the meantime, the Government was not playing an effective gate-keeping role in annual tariff reviews to safeguard public interest. He cautioned that once the use of natural gas for power generation picked up significantly due to the tightened emission standards, the tariffs might increase by a large extent. To reduce the tariffs in the long run, he urged the Government to reduce the permitted RoR from the current 9.99% to, say 5%, in the next SCAs.

73. DSEN said that the basic tariffs proposed by the companies were subject to vetting by the Government, which took into consideration factors including the variation of their operating costs which were affected by inflation, and variation of their capital expenditure, for example due to installation of transmission and distribution networks to serve new development areas. Currently the Government was proactively discussing with the two power companies the terms of the new SCAs with a view to reducing the permitted RoR. SEN stressed that to achieve the new fuel mix and use more natural gas for power generation, there would be unavoidably a cost implication on electricity tariffs. To this end, in drawing up the new SCAs, the Government would strive to strike a balance between the considerations of environmental protection and the affordability of tariffs by members of the public.

74. Sharing Mr Holden CHOW's views, Mr LUK Chung-hung considered the current permitted RoR too high, especially since he opined that the power



companies ran a risk-free business where the fuel costs of electricity generation were borne by customers. He also expressed concern on the overestimation of fuel costs by the power companies and the resulting high tariffs, and suggested imposing a cap on their fuel clause recovery account ("FCA") balance and setting up a rebate mechanism to govern the rebate of overcharged money.

75. DSEN said that the Administration was aware of the public concern on the recent high FCA balance of the power companies. It would explore ways to improve the fuel cost charging arrangement with the power companies in the context of the new SCAs.

76. Mr LUK Chung-hung also raised concern on the manpower development of the power companies. To enhance the upward mobility of young people, he suggested the Administration require the power companies, through the next SCAs, to set up an apprenticeship scheme with reference to the Pilot Earn and Learn Scheme of the retail sector. Relaying relevant concerns of the staff associations of the power companies, he urged the power companies to have effective communications with those associations.

77. SEN said that manpower development was an important issue for all industries. However, it did not fall within the scope of the SCAs and the Government would relay the suggestion and concerns to the power companies as appropriate.

78. Mr Kenneth LEUNG pointed out that during the consultation on future fuel mix for electricity generation conducted in 2014 ("2014 Consultation"), a majority of respondents did not support the option of importing more electricity through purchase from the Mainland power grid. He enquired whether the Administration was planning to launch another public consultation on this matter.

79. DSEN explained that having regard to the predominant public support for using more natural gas for local generation in the 2014 Consultation, the Administration had been working on this basis and had set the use of natural gas as 50% of the total fuel mix by 2020. At the 2015 Consultation, the public considered that the requisite market conditions were not present in Hong Kong for introducing competition to the electricity market at this stage. Nevertheless, the Administration considered it necessary to pave the way for future market development once such market conditions were present in Hong Kong. In this regard, the Administration would conduct a study during the next SCA period, i.e. after 2019, on enhancing interconnection between Hong Kong and the Mainland.

*Energy savings and promotion of RE*

80. Mr Jeremy TAM asked about the measures adopted to promote energy saving, in particular, the progress of implementing smart metering by the two power companies.

81. DSEN said that CLP Power Hong Kong Ltd. ("CLP") had launched for two years a pilot scheme for installing smart meters for some residential, commercial and industrial customers, with a view to testing out the potential benefits of such technology and helping customers to achieve energy savings. After reviewing the pilot results, CLP would launch a second expanded pilot scheme in 2017, so as to collect more data before deciding on the way forward. DSEN also said that The Hongkong Electric Company Ltd. had planned to conduct a pilot on this matter in 2017.

82. Mr Kenneth LEUNG sought more information about the changes to the fuel mix as a result of the higher proportion of renewable energy ("RE") to be used as set out in the "Hong Kong's Climate Change Action Plan 2030+" ("the Report").

83. Under Secretary for the Environment ("USEN") responded that as detailed in the Report, the Administration estimated that Hong Kong had about 3%-4% of realizable RE potential arising from wind, solar and waste-to-energy ("WTE") that could be exploited by 2030. The estimated potential from wind and WTE would amount to less than 1.5% and about 1% respectively of Hong Kong's total electricity consumed, while the potential for solar energy that could be realized by 2030 was not easy to estimate at this stage. Given the public support of the use of more RE as reflected in the 2015 Consultation, the Government would take the lead to apply RE on a wider and larger scale in the years ahead. In addition, it was also exploring with the power companies if the feed-in tariffs and RE certificates could be introduced in the next SCAs so as to facilitate the private sector on RE adoption.

84. Mr Jeremy TAM noted that to encourage environmental protection, new buildings were recommended to have electric vehicle ("EV") charging facilities installed at some of their car parking spaces under the existing planning guidelines. He suggested the Government consider encouraging developers of new areas, particularly those rural or less densely populated areas, to incorporate RE facilities like photovoltaic panels or wind turbines in the new developments through the provision of incentives.

85. SEN explained that the Administration aimed to encourage the promotion of green measures by means of project planning and provision of economic incentives. For example, gross floor area ("GFA") concessions

would be granted for car parks of new buildings if developers had put in place sufficient EV charging infrastructure in car parks to facilitate future installation of chargers by EV users. In addition, through GFA concessions, new building developers were encouraged to adopt green building design and construction such as wider use of RE under the BEAM Plus system, and such arrangement would be reviewed to further promote green buildings as set out in the 2017 Policy Address. The Administration would also introduce various measures to further promote RE development in the community, including under the context of the new SCAs.

*Environmental conservation*

86. Mr Frankie YICK asked about the timetable for implementing a domestic emission control area ("DECA") in the PRD waters. USEN advised that the Mainland authorities had announced in December 2015 that such DECA should be established in the PRD waters in 2019. The Administration was now coordinating with relevant Mainland authorities to ensure that local legislation would be made in line with the Mainland's policies. It had also kept the industry informed on the latest development.

87. Mr Frankie YICK noted that a producer responsibility scheme ("PRS") targeting waste electrical and electronic equipment had entered the final stage of preparation for phased implementation, and the Administration would soon explore how to implement PRS for suitable plastic containers. He suggested the Administration implement the scheme on waste car batteries and waste vehicle tyres so as to facilitate proper collection and recycling of these items.

88. SEN replied that the Administration would continue to undertake various actions in phases in accordance with the Hong Kong: Blueprint for Sustainable Use of Resources 2013-2022 ("the Blueprint") to reduce waste at source. Municipal solid waste charging was a key initiative under the Blueprint. On PRS implementation, the Administration would commission a feasibility study on how to implement a PRS targeting suitable plastic containers, mainly those carrying beverages or personal care products as mentioned in the 2017 Policy Address.

89. Mr Frankie YICK also noted that the Chief Executive had proposed in the 2017 Policy Address to incorporate more land with high ecological value into country parks, whereas low value land at the parks' periphery could be developed for, for example, public housing or non-profit-making elderly homes.

He enquired about the views of the Environment Bureau on this matter. SEN said that the Administration had not studied this proposal in detail which was brought forward simply to induce public discussion in the first place.

90. Dr YIU Chung-yim welcomed the Administration's determination for actively considering a non in-situ land exchange involving the private land with high ecological significance at Sha Lo Tung by offering the rehabilitated Shuen Wan Landfill in Tai Po. He enquired whether a timetable for taking forward such determination would be available before the expiry of the current Government term, and any measures would be adopted to protect the ecological value of that land in the interim.

91. SEN said that Sha Lo Tung was a complicated issue and had been discussed for over decades. In view of its high ecological value, it was ranked second out of the 12 priority sites for enhanced conservation under the new nature conservation policy. To conserve the land in the long term, the Administration aimed to take forward the said non-in-situ land exchange, subject to further consideration and approval to be sought under the established mechanism. Hence a concrete timetable on this matter was not available. Meanwhile, the Agriculture, Fisheries and Conservation Department would liaise with the land owner and ensure that the land in question would be conserved in accordance with the law.

## **VII. Briefing by the Secretary for Transport and Housing on the Chief Executive's 2017 Policy Address**

(LC Paper No. CB(4)410/16-17(07) — Administration's paper on 2017 Policy Address — Policy Initiatives of the Transport Branch of the Transport and Housing Bureau)

92. At the invitation of the Chairman, Secretary for Transport and Housing ("STH") briefed members on the policy initiatives of the Transport Branch of THB.

*(Post-meeting note: The speaking note of STH was issued to members vide LC Paper No. CB(4)472/16-17(02) on 23 January 2017.)*

Discussion

*Matters relating to aviation*

93. Mr YIU Si-wing expressed support for the establishment of a civil aviation academy by the Airport Authority Hong Kong ("AAHK"). Noting that the academy would offer joint programmes involving an overseas aviation school, he considered it essential for AAHK to collaborate with local airlines in offering joint programmes and encourage them to provide job opportunities for academy graduates. He also stressed the need to offer suitable programmes with a view to easing the manpower shortage problem faced by the Hong Kong International Airport ("HKIA").

94. Mr Jeremy TAM declared that he was employed by an airline. He expressed support for the establishment of the civil aviation academy, and urged the authorities to step up the publicity on this initiative, such as placing promotion panels with details of the academy at HKIA. In addition, AAHK should also partner with more airlines and other industry stakeholders to provide joint programmes, so as to enhance the employment prospects of the graduates.

95. STH explained that the civil aviation academy would target to nurture both local and regional talents in the aviation sector. Apart from the agreement reached with the National School of Civil Aviation of France, AAHK would also partner with local educational and vocational training institutions, AAHK's business partners and other organizations to offer a wide range of courses. It would also explore the feasibility to collaborate with airlines to offer programmes addressing the needs of HKIA.

96. Mr Jeremy TAM also said that he was very concerned about the teething issues of the new Air Traffic Control ("ATC") System. Noting that the system operation had become stable recently, he hoped that this situation would continue, especially when a major software upgrade would be launched shortly according to his understanding. On the other hand, he was worried about the shortage of manpower resources, especially for air traffic controllers, in the Civil Aviation Department ("CAD") and urged the Administration to address this matter.

97. Mr Kenneth LEUNG sought more information about the Independent Air Accident Investigation Authority ("AAIA") to be established, including its scope of operation, composition and structure, and annual resources. He also asked if such body would look into issues arising from the operation of the new ATC System.

98. STH said that according to the new standards of the International Civil Aviation Organisation ("ICAO"), member states were required to form an independent authority to investigate air accidents or serious incidents involving public air transport, which were previously conducted by the accident investigation team of CAD in the context of Hong Kong, within two years from November 2016. Under the current plan, AAIA would be established under THB and would report to STH. It would comprise a chief investigator of accidents of directorate rank and several investigation officers. The Administration would consult this Panel on the detailed proposal in due course. STH added that although issues simply relating to the operation of the ATC System would be outside the purview of AAIA, CAD's operation might be subject to investigation if it was involved in any aircraft accident/serious incident.

99. Mr Jeremy TAM said that he welcomed the setup of AAIA, which in fact had been urged by some industry stakeholders for a long time. He considered that this arrangement could ensure impartiality in conducting relevant investigations, and suggested setting up similar investigation bodies for maritime and railway accidents.

100. STH said that in parallel to the promulgation of ICAO's new standards, THB had been considering a similar proposal for some time having regard to the opinions from the industry stakeholders, including the International Air Transport Association. On the other hand, the Administration had no plan at the moment to set up similar independent investigation bodies for the railway and maritime sectors. Currently, the Electrical and Mechanical Services Department and the Marine Department were responsible for investigating any major operational issues and accidents in the respective sectors. The Administration would focus on the setting up of AAIA at this stage.

101. The Chairman declared that he was a member of the AAHK Board. Noting that the SKYCITY development would generate investment, business and employment opportunities for Hong Kong, he questioned about the estimated economic benefits brought about by such project. He also urged THB to discuss with relevant bureaux so as to make early preparations for the impacts on the community due to the increase of people coming to Hong Kong under the project.

102. STH responded that the development of SKYCITY would enhance the attractiveness and overall competitiveness of HKIA as a global aviation hub and promote tourism. In fact, major aviation hubs worldwide had been trying to enhance international passengers' experience by pursuing the "skycity" concept. The Government would keep in view the possible impact arising from the increased number of visitors.

*Maritime and logistics development*

103. Noting the establishment of the Hong Kong Maritime and Port Board ("HKMPB") in 2016, Mr Holden CHOW was concerned about its role in enhancing the development of the maritime industry in Hong Kong. He suggested the Panel discuss relevant matters at a future meeting. STH agreed to arrange with the Secretariat as appropriate.

*(Post-meeting note: The proposed item had been incorporated into the Panel's list of outstanding items for discussion.)*

104. Mr Frankie YICK expressed concern about the provision of land for the logistics industry. He reminded the Administration that the Government had undertaken in the 2009 Policy Address to provide a total of 29 hectares of land in Kwai Tsing for this purpose, but so far only 6.9 hectares of land had been released to the market. In addition, the Government had also mentioned in the 2014 Policy Address that two sites totaling around 10 hectares in Tuen Mun West (Tuen Mun Areas 38 and 49) had been reserved for the logistics services, but both of them had not been released to the market yet. To this end, he asked about the timetable for releasing the site of Tuen Mun Area 49.

105. Deputy Secretary for Transport and Housing (Transport) 5 said that the Administration was undertaking preparatory works for the site in Tuen Mun Area 49 with a view to seeking the Town Planning Board's approval to release it for logistics development in 2019. Mr YICK requested the Administration to provide a written response on the progress and timetable for disposing suitable sites locating in Tuen Mun Areas 38, 40, 46 and 49 respectively for the development of modern logistics facilities.

*(Post-meeting note: The Administration's written response was issued to members vide LC Paper No. CB(4)597/16-17(01) on 21 February 2017.)*

106. Mr WU Chi-wai asked about the difference between high value-added third-party logistics services and conventional logistics services in respect of land requirement, as well as the sites which had been reserved for this industry apart from those in Tuen Mun. He also urged the Administration to conduct a review on land use planning having regard to the development of third-party logistics services.

107. STH said that given the limited land resources and high operation cost in Hong Kong, the logistics industry was gradually shifting towards the provision of high valued-added third-party logistics services, such as providing tailor-made logistics solutions and operation systems to enterprises. This change allowed Hong Kong to make good use of its talents and technologies to drive the industry forward. The Administration was committed to supporting modern logistics development and the Hong Kong Logistics Development Council was chaired by STH. STH supplemented that it would be more effective to use valuable land for developing third-party logistics services. Logistic centres might also be built in the form of multi-storey buildings to further enhance the effective use of land resources.

108. Mr WU Chi-wai also expressed concern that the cabotage restrictions had been relaxed in some Mainland ports, meaning that foreign-flagged ships could transport cargo from one Mainland coastal port to another eliminating the need to transship the cargo via Hong Kong. He was concerned whether the Administration would review the impact of such situation on the logistics industry in Hong Kong and devised measures to tackle the challenge.

109. STH responded that the Administration had noted the situations where some foreign flagged ships owned by Chinese shipping companies were allowed to operate in some Mainland ports. The Government considered it a relaxation of the cabotage rule and had raised concerns to the Mainland authorities on this matter.

*Matters relating to road transport*

110. Mr YIU Si-wing declared that his company involved the operation of cross-boundary coaches. He said that upon the completion of HZMB, the cross-boundary traffic between Hong Kong and the PRD region would become more frequent. As such, the provision of only 650 parking spaces at Hong Kong Boundary Crossing Facilities ("HKBCF") would be insufficient to cope with the demand and hence should be increased.

111. STH said that various kinds of public transport facilities would be provided at HKBCF to facilitate cross-boundary travellers. To cater for people who would drive their private cars to HKBCF, 650 parking spaces would be provided there. The Administration would review the feasibility of increasing the supply of parking spaces should there be a keen demand after the commissioning of HZMB. The transport arrangement for HZMB was also discussed at the meetings of the Panel on Transport.



### **VIII. Proposed dedicated tax regime to develop aircraft leasing business in Hong Kong**

(LC Paper No. CB(4)410/16-17(08) — Administration's paper on proposed dedicated tax regime to develop aircraft leasing business in Hong Kong

LC Paper No. ISE17/15-16 — Essentials on key drivers for developing an aircraft leasing centre prepared by the Research Office of the Legislative Council Secretariat)

112. At the invitation of the Chairman, STH briefed members on the proposal to amend the Inland Revenue Ordinance (Cap. 112) ("IRO") to create a dedicated tax regime to attract aircraft leasing business to Hong Kong. With the aid of the power-point presentation material, Deputy Commissioner of Inland Revenue (Technical) ("DCIR(T)") introduced the details of the proposal.

*(Post-meeting note: The power-point presentation material provided by the Administration was issued to members vide LC Paper No. CB(4)474/16-17(01) on 23 January 2017.)*

#### Discussion

##### *Proposed tax concessions*

113. Mr Jeremy TAM declared that he was employed by an airline. He appreciated the initiative proposed by the Administration, and considered it conducive in driving the overall development of high value-added services in Hong Kong. He sought more information about the tax concessions in discussion such as the effective tax rate for this business.

114. DCIR(T) explained that according to IRO, Hong Kong aircraft lessors were denied depreciation allowances in respect of the cost of aircraft for offshore leasing activities. While the existing tax rule on depreciation allowances would remain unchanged, the Government proposed to reduce the tax rate on the qualifying profits of Hong Kong aircraft lessors to half of the prevailing corporate tax rate of 16.5% (i.e. 8.25%), and set the taxable amount of rentals derived from leasing of an aircraft to an offshore airline by a

qualifying lessor as 20% of the tax base (i.e. gross rentals less deductible expenses, excluding tax depreciation). In other words, the resultant effective tax rate for the business would be about 4%.

115. Mr Jeremy TAM asked further about the competitive edges of Hong Kong in promoting the aircraft leasing business. DCIR(T) explained that for offshore aircraft leasing business, the lease rentals might be regarded as income sourced from the overseas jurisdiction and subject to a withholding tax, depending on the tax treaties between the lessor's and lessee's jurisdictions. Hong Kong had entered 36 tax treaties with other jurisdictions, which was less than that of Singapore and Ireland. However, these tax treaties were more updated and provided for a lower withholding tax rate for aircraft lessors in operating offshore leasing business. For example, under the Russia-Hong Kong tax treaty, rental incomes derived from the lease of aircraft by Hong Kong lessors to Russian lessees would be exempted from the withholding tax in Russia.

#### *Benefits to Hong Kong*

116. Dr CHIANG Lai-wan appreciated the Administration's efforts in enhancing the development of air and maritime transport, including the proposed creation of a dedicated tax regime for offshore aircraft leasing transactions in Hong Kong. She considered it worthwhile to provide tax concessions with a view to attracting a new business, especially for the aircraft leasing business which would account for a cumulative GDP value added of over HK\$430 billion over a 20-year period and create direct employment of around 1 640 people. To this end, she asked about the timeframe for implementing such initiative as well as the nature of the jobs to be created.

117. STH said that the Administration aimed to operate the proposed new tax regime on a long-term basis for the aircraft leasing business. Such initiative would be the first of its kind adopted in Hong Kong and it would attract aircraft lessors to establish in Hong Kong, and hence create direct employment of about 1 640 jobs and indirect employment of over 13 700 jobs across the financial, aircraft maintenance, accounting and administration sectors etc.

118. In response to Mr Jeremy TAM's question on the manpower development for this new business, DCIR(T) said that the proposal required the qualifying aircraft lessors and leasing managers to have their central management and control as well as profit generating activities to be located in Hong Kong. This would ensure that they had commercial substance in Hong Kong, and thus local workforce would benefit from the proposal.

119. Mr CHAN Chun-ying declared that he worked for a bank whose parent company owned a Singapore aircraft leasing corporation listed in Hong Kong. Although supporting the proposal, he considered it essential to admit talents of various fields from outside Hong Kong so as to develop this new business locally and compete with other market players. In this regard, he asked if the Administration would devise measures to encourage talent admission in this respect.

120. Mr Holden CHOW expressed support for the proposal, and considered such initiative conducive to attracting relevant companies to establish in Hong Kong taking into consideration the successful experiences of Ireland and Singapore. He also remarked that in light of the specialized nature of aircraft leasing business, there were only a few legal practitioners handling relevant business matters in Hong Kong. In this regard, he agreed that manpower development was a key issue should Hong Kong aim to promote this new business. To this end, relevant educational programmes would need to be provided to ensure sufficient manpower support for the development of this business.

121. STH said that Hong Kong had been providing various manpower training programmes and opportunities for different industries. The education sector would review and revise the respective curriculum pursuant to the Government's policy directions. The Administration noted the need to strengthen the manpower development of different professions varying from legal, banking, insurance, aircraft engineering, accounting and taxation, etc., should Hong Kong take forward the promotion of aircraft leasing business and it would liaise with the education sector on this matter. If the new tax regime was adopted, it was expected that Hong Kong could capture up to about 18% of the global market share gradually in 20 years' time.

*Development of other industries*

122. Mr Frankie YICK welcomed the proposal. However, he raised concern that some maritime enterprises had relocated their businesses to Singapore due to its favourable tax regime. This issue had been raised by many members of HKMPB at its meetings. To address the problem, he called on the Government to make reference to the Singapore's experience and provide tax incentives with a view to encouraging maritime enterprises to develop businesses in Hong Kong and hence strengthening Hong Kong's position as a regional hub port.

123. Mr Kenneth LEUNG said that all along he was supportive of promoting aircraft leasing business in Hong Kong. He hoped that such proposal could be implemented as early as possible. He also called on the Government to apply similar tax concessions for the maritime industry as similar requests had been raised since the late 1990s. Besides, setting up a new tax regime for the maritime industry would involve similar principles and mechanisms adopted for the aircraft leasing business, and hence there should not be substantial difficulties to implement both concurrently.

124. STH responded that the proposed initiative was indeed a policy breakthrough of the Government aiming to attract a new business to Hong Kong which would bring about substantial economic benefits. The Administration noted the challenges faced by the maritime industry and would consider how to address them as appropriate. At the same time, the Government was also mindful to provide a level-playing field for businesses operating in Hong Kong. As each industry might encounter different operational challenges, the Government should be cautious when considering the justifications for providing tax incentive schemes catering for a specific industry.

125. The Chairman urged the Administration to consider the repeated calls from the local enterprises for the provision of tax concessions for expenses on innovation and scientific research. While supporting the proposal, he urged the Administration to continue its efforts in putting into effect the suggestions which were beneficial to Hong Kong, and explore the provision of the proposed tax concessions for local enterprises.

**IX. Any other business**

126. There being no other business, the meeting ended at 1:28 pm.

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