

立法會
Legislative Council

LC Paper No. CB(4)1479/16-17
(These minutes have been seen
by the Administration)

Ref : CB4/PL/EDEV

Panel on Economic Development

Minutes of meeting
held on Monday, 22 May 2017, at 10:45 am
in Conference Room 1 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 Mrs Regina IP LAU Suk-ye, GBS, JP
Hon Paul TSE Wai-chun, JP
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 Charles Peter MOK, JP
Dr Hon KWOK Ka-ki
Hon Dennis KWOK Wing-hang
Hon Christopher CHEUNG Wah-fung, SBS, JP
Hon Martin LIAO Cheung-kong, SBS, JP
Dr Hon CHIANG Lai-wan, JP
Hon Jimmy NG Wing-ka, JP
Hon Holden CHOW Ho-ding
Hon SHIU Ka-fai
Hon CHAN Chun-ying
Hon LUK Chung-hung
Hon Jeremy TAM Man-ho
Dr Hon YIU Chung-yim

Member attending : Hon Andrew WAN Siu-kin

Members absent : Hon WONG Kwok-kin, SBS, JP
Hon LEUNG Kwok-hung
Hon Claudia MO
Hon Kenneth LEUNG
Dr Hon Elizabeth QUAT, JP
Ir Dr Hon LO Wai-kwok, SBS, MH, JP
Hon CHUNG Kwok-pan
Hon CHU Hoi-dick
Dr Hon Junius HO Kwan-yiu, JP
Hon Kenneth LAU Ip-keung, MH, JP

[According to the Judgment of the Court of First Instance of the High Court on 14 July 2017, LEUNG Kwok-hung, Nathan LAW Kwun-chung, YIU Chung-yim and LAU Siu-lai have been disqualified from assuming the office of a member of the Legislative Council, and have vacated the same since 12 October 2016, and are not entitled to act as a member of the Legislative Council.]

Public Officers attending : Agenda item IV

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

Ms Louisa YAN
Principal Assistant Secretary for Transport and
Housing (Transport)10

Mr YU Ying-wai
Assistant Director of Marine / Multi-lateral Policy

Mr LIU Chiu-fai
Senior Surveyor of Ships / Technical Policy 2
Marine Department

Mr LUI Kam-leung
Senior Surveyor of Ships / Planning and Training
Marine Department

Mr Henry MAK
Assistant Secretary for Transport and Housing
(Transport)10C

Agenda item V

Ms Christine LOH, JP
Under Secretary for the Environment

Mr Vincent LIU, JP
Deputy Secretary for the Environment

Ms Esther WANG
Principal Assistant Secretary for the Environment
(Financial Monitoring)

Ms Leona LAW
Principal Assistant Secretary for Commerce and
Economic Development (Commerce and Industry) 2

**Related
organization**

: Agenda item V

Competition Commission

Ms Rose WEBB
Chief Executive Officer

Mr Rasul BUTT
Senior Executive Director

Mr Norris CHAN
Competition Affairs Officer

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

Staff in attendance : 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

Ms Zoe TONG
Legislative Assistant (4)5

Miss Mandy LUI
Clerical Assistant (4)5

Action

I. Confirmation of minutes of meeting

(LC Paper No. CB(4)1030/16-17 — Minutes of meeting held on 27 March 2017)

The minutes of the meeting held on 27 March 2017 were confirmed.

II. Information papers issued since the last meeting

(LC Paper No. CB(4)898/16-17(01) — Administration's response to the letter from Hon Michael TIEN Puk-sun dated 11 April 2017 proposing discussion on the latest development of the new Air Traffic Management System as set out in LC Paper No. CB(4)845/16-17(01)

LC Paper No. CB(4)908/16-17(01) — Letter from Hon LUK Chung-hung dated 20 April 2017 proposing discussion on the update on the food truck pilot scheme (Chinese version only)

LC Paper No. CB(4)909/16-17(01) — Letter from Hon Jeremy TAM Man-ho dated 21 April 2017 proposing discussion on issues relating to the collapse of an air bridge at the Hong Kong International Airport occurred on 7 April 2013 (Chinese version only)

LC Paper No. CB(4)960/16-17(01) — Administration's paper on tables and graphs showing the import

and retail prices of major oil products from April 2015 to March 2017)

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

III. Items for discussion at the next meeting

(LC Paper No. CB(4)1032/16-17(01) — List of outstanding items for discussion

LC Paper No. CB(4)1032/16-17(02) — List of follow-up actions)

3. Members agreed to discuss the following items at the next regular meeting scheduled for Monday, 26 June 2017 at 10:45 am –

- (a) Amendments to subsidiary legislation under the Merchant Shipping (Prevention and Control of Pollution) Ordinance (Cap. 413) and the Merchant Shipping (Limitation of Shipowners Liability) Ordinance (Cap. 434) to implement the International Convention for the Prevention of Pollution from Ships and the Convention on Limitation of Liability of Maritime Claims; and
- (b) Further development of Hong Kong's port and maritime services.

IV. Amendments to subsidiary legislation under the Merchant Shipping (Safety) Ordinance (Cap. 369) for implementation of the latest requirements under the International Convention on Load Lines and the International Convention for the Safety of Life at Sea

(LC Paper No. CB(4)1032/16-17(03) — Administration's paper on incorporating in local legislation the latest standards of the International Maritime Organization)

Presentation by the Administration

4. At the invitation of the Chairman and with the aid of power-point presentation, Deputy Secretary for Transport and Housing (Transport)5 ("DSTH5") briefed the Panel on the proposed legislative amendments to incorporate in local legislation the latest requirements set out in the International Convention on Load Lines ("Load Lines Convention") and the International Convention for the Safety of Life at Sea ("SOLAS") adopted by the

International Maritime Organization ("IMO"). Details were set out in the Administration's paper (LC Paper No. CB(4)1032/16-17(03)).

(Post-meeting note: The power-point presentation material provided by the Administration was issued to members vide LC Paper No. CB(4)1072/16-17(01) on 23 May 2017.)

Discussion

The proposals

5. Mr James TO enquired about the intact stability requirements adopted worldwide before IMO adopting the requirements stipulated in Part A of the 2008 International Code on Intact Stability ("2008 IS Code"). He also requested the Administration to provide a comparison table setting out the existing intact stability requirements for local vessels against the requirements stipulated in 2008 IS Code which were applicable to cargo and passenger ships, fishing vessels and other marine vehicles of 24 m in length and above.

(Post-meeting note: The Administration's response was issued to members vide LC Paper No. CB(4)1281/16-17(01) on 23 June 2017.)

6. Assistant Director of Marine, Multi-lateral Policy of the Marine Department ("MD"), said that there were no unified requirements on intact stability among overseas jurisdictions before the implementation of 2008 IS Code. To ensure that ships had a robust hull which could withstand severe sea conditions and had adequate stability for loading and operating conditions, IMO mandated that all ocean-going passenger and cargo vessels which were 24 metres and above in length and constructed on or after 1 July 2010 had to comply with requirements stipulated in Part A of the 2008 IS Code. The requirements adopted in Hong Kong did not include the calculation of wind heeling lever for ships.

7. Mr James TO asked further if local vessels would be required to follow the intact stability requirements as stipulated in 2008 IS Code. DSTH5 said that as local vessels were usually smaller in size and did not engage in international voyages, the international requirements were not entirely relevant and necessary.

8. Mr YIU Si-wing was of the view that in adopting the latest international maritime requirements in Hong Kong, consideration should be given to the possible impact caused to the local shipping industry. As some small local vessels, such as pleasure vessels, were not as technologically advanced as ocean-going vessels ("OGVs"), he asked if the Administration had ever communicated with relevant stakeholders with a view to upgrading these vessels and preparing for applying international requirements to them.

9. DSTH5 said that the legislative amendments were intended for OGVs. In respect of local pleasure vessels, appropriate measures commensurate with local navigation conditions would be implemented if necessary.

10. Dr CHIANG Lai-wan enquired further information about the legislative amendments to reflect the changes to the International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk ("IGC Code") under Chapter VII of SOLAS, including the scope of gas carriers subject to the new requirements and whether any of Hong Kong-registered gas carriers would be affected.

11. Senior Surveyor of Ships (Planning and Training) of MD ("SS/PT") explained that IMO introduced major changes to the IGC Code in 2014 to update requirements in respect of the design, the electrical system and the cargo handling and operation of gas carriers. These changes applied to gas carriers constructed on or after 1 July 2016. The date of keels laid, or a similar stage of construction where assembly of that ship had commenced comprising at least 50 tonnes or 1% of the estimated mass of all structural material (whichever was less), would be used for the purpose of ascertaining compliance. All the 48 gas carriers currently registered in Hong Kong were constructed prior to 1 July 2016.

12. The Chairman enquired about the parties responsible for certifying the keel laying date of ships registered in Hong Kong for law enforcement. He also asked about the enforcement actions and penalty against the infringement of relevant requirements under the proposals.

13. SS/PT responded that recognized classification societies, which maintained a record of these ships, including their keel laying dates, were responsible for the certification. Besides, MD also issued Hong Kong Merchant Shipping Information Note to notify the shipping industry about the new requirements of the IGC Code.

14. On penalty, DSTH5 replied that non-compliance of requirements under Load Lines Convention and SOLAS would be subject to a fine as stipulated under the Merchant Shipping (Safety) Ordinance (Cap. 369), which would continue to apply. In addition, Hong Kong-registered OGVs might be subject to detention by overseas port state control in case of breaching relevant international requirements. No such non-compliance had been observed on Hong Kong-registered vessels in the past.

International maritime conventions

15. Mr CHAN Chun-ying enquired about the reasons for the continuous delay of incorporating the international maritime requirements in local legislation. He also raised concern if the late adoption of new requirements under the

SOLAS-IGC Code had affected the number of new gas carriers registering in Hong Kong, and the timing for completing the legislative amendments.

16. DSTH5 said that IMO adopted resolutions from time to time to amend the relevant international requirements so as to keep them in tandem with the new shipping technological and operational practices. The IGC Code was implemented in Hong Kong through the Merchant Shipping (Safety) (Gas Carriers) Regulations (Cap. 369Z), which was last amended in 1996. In this legislative exercise, amendments would be made to Cap. 369Z to reflect the major changes made to IGC Code in 2014. The Administration aimed to introduce the legislative amendments relating to SOLAS and Load Lines Convention into the Legislative Council in the 2017-2018 session.

17. On measures to address the delay in updating local legislation, DSTH5 advised that a dedicated legal team had been created in the Department of Justice to support the Transport and Housing Bureau ("THB") and MD. In the interim, MD would take administrative measures to notify the shipping industry of the amendments concerned to facilitate compliance with such requirements by Hong Kong-registered OGVs. She also said that the Hong Kong Shipping Register had all along been providing quality ship registration services, with gross registered tonnage ranked the fourth in the world. The detention rate of ships flying the Hong Kong flag was less than 1%, which was much lower than the world average.

18. Mr Frankie YICK pointed out that the shipping industry had no adverse views on the proposals as relevant OGV operators had been complying with such international requirements. Nevertheless, he called on the Administration to speed up the legislative exercises to incorporate in the local legislation the latest requirements in international conventions that were applicable to Hong Kong. He also urged the Administration to be cautious in considering the adoption of some international maritime requirements which might have adverse impact on the competitiveness of the local shipping industry, especially those requirements which the neighbouring ports in the Pearl River Delta region did not follow suit.

19. DSTH5 said that two-third of the legislative backlog had been cleared and the remainders would be dealt with in the coming two years. However, as relevant conventions were under constant review by IMO in the light of the latest international developments and needs, new legislative work would be created from time to time and the Government had been exploring a better way of coping with such frequent updating.

Conclusion

20. The Chairman concluded that the Panel was generally supportive of the proposals. He also requested the Administration to take note of members' views on relevant matters.

V. **Competition Commission's study on the auto-fuel market**

(LC Paper No. CB(4)1032/16-17(04) — Competition Commission's paper on the study into Hong Kong's auto-fuel market

LC Paper No. CB(4)1032/16-17(05) — Paper on Competition Commission's study on the auto-fuel market prepared by the Legislative Council Secretariat (background brief)

LC Paper No. CB(4)1032/16-17(06) — Letter from Hon Frankie YICK Chi-ming dated 15 May 2017 on Competition Commission's study on the auto-fuel market (Chinese version only)

Presentation by the Competition Commission

21. At the invitation of the Chairman, Mr Rasul BUTT, Senior Executive Director of the Competition Commission ("the Commission"), briefed members on the report of the Commission's study into Hong Kong's auto-fuel market. The report identified a number of issues which the Commission believed to be hindering competition and which would likely have contributed to high auto-fuel prices in the territory. The report also made recommendations on how to address these issues with the aim of furthering competition in the market, which were (a) re-introduction of 95 Research Octane Number ("RON") petrol; (b) increase of petrol filling station ("PFS") sites; (c) review of tendering system for PFS sites; (d) prominent display of pump prices and walk-in discounts; (e) structural reform to reduce entry and expansion barriers; and (f) the Commission to be provided with information gathering power. Details of the report were set out in LC Paper No. CB(4)1032/16-17(04).

Discussion

Re-introduction of 95 RON petrol

22. Mr LUK Chung-hung considered that although the Commission found no hard evidence of anti-competitive conduct in the local auto-fuel market, it was obvious that the fuel price in Hong Kong was relatively high in the world. He noted that currently only "standard" and "super" varieties of 98 RON petrol were available in the market whereas a consumer preference survey showed that a vast majority of the respondents in Hong Kong might switch to petrol with

lower octane level if it would be 10% cheaper. He enquired about the estimated price difference between 95 RON petrol and 98 RON petrol as well as the demand for the former in Hong Kong.

23. Mr Rasul BUTT of the Commission explained that it was difficult to project the retail price of 95 RON petrol in Hong Kong. In Singapore and London, the price of 98 RON petrol was around 15% and 8.9% higher than that of 95 RON petrol respectively. In the local context, since the price of "super" 98 RON petrol was higher than that of "standard" 98 RON petrol by over \$1 per litre, the Commission was of the view that re-introducing 95 RON would not only provide more and likely cheaper options to drivers, it might also put competitive pressure on the sales of existing 98 RON petrol, possibly leading to lower prices and benefiting those consumers who chose to continue to use 98 RON petrol.

24. Dr CHIANG Lai-wan considered that some of the Commission's recommendations, particularly re-introduction of 95 RON petrol, should be taken forward as early as possible. She said that 95 RON petrol was widely used by drivers in other international markets and it was cheaper than 98 RON petrol. Dr CHIANG enquired if there were any concerns to take forward such proposal in respect of environmental impact and application on local vehicles.

25. Under Secretary for the Environment ("USEN") pointed out that using 95 RON petrol would not bring forth additional emission demerits. Apart from the environmental concerns, the Administration should also take into account other factors including the operational arrangements of oil companies and the physical constraints at individual PFSs. It would explore further and discuss with relevant oil companies on this option. Nevertheless, even if 95 RON petrol was re-introduced, its retail price might not be 10% cheaper than that of 98 RON petrol in Hong Kong, and some PFSs in Hong Kong might not be able to supply both types of petrol.

26. Mr Andrew WAN did not subscribe to the Administration's claim that the retail price of 95 RON petrol might not be significantly cheaper than that of 98 RON petrol. He pointed out that as there was a significant price difference between the two varieties of 98 RON petrol in the market, 95 RON petrol should have a price advantage over 98 RON petrol in Hong Kong.

27. USEN explained that although it might be cheaper to use 95 RON petrol, the actual price reduction would be subject to the costs incurred by oil companies on additional terminal storage facilities and transportation as a result of supplying petrol of different octane levels in Hong Kong. In fact, the Government had no adverse opinion on the re-introduction of 95 RON petrol, and it shared the Commission's view that more choices should be provided to consumers as far as practicable.

28. Mr CHAN Chun-ying noted that 95 RON petrol was once introduced into the Hong Kong auto-fuel market in 1991, but was withdrawn by all oil

companies in March 1992 after being sold in the market for less than a year. He enquired about the reasons for the withdrawal, and whether it was sold at a reasonable price as compared to that of 98 RON petrol.

29. Mr Rasul BUTT of the Commission responded that according to the oil companies, 95 RON petrol was withdrawn from the market because of customers' preference on 98 RON petrol which had a better performance. The Commission was not convinced of the explanation having regard to the fact that the market share of 95 RON petrol in Singapore was over 50%. Its view was supported by the survey that more than 99% of the local petrol engine vehicles sampled could use 95 RON petrol. A consumer preference survey also found that a vast majority of the respondents indicated their likeliness to switch to a petrol with lower octane level subject to a price reduction. In this regard, the Commission recommended that the Government should consider re-introducing 95 RON petrol.

30. The Chairman considered it necessary for the Government to explore ways to provide more cheaper options to consumers. Given that only around 15% of cars being luxurious and high performance in nature were recommended to use 98 RON petrol according to the Commission's study, he suggested that the Government could consider specifying in the lease conditions that a majority of PFSs should supply 95 RON petrol while 98 RON petrol could be supplied in some PFSs as an optional premium product. Sizable PFSs with sufficient space could be mandated to supply both products.

31. USEN said that the Environment Bureau ("ENB") would seriously consider the recommendation of re-introducing 95 RON petrol into the market to provide more choices to consumers. It would discuss with the relevant Government departments and the oil companies further in this regard.

Review of tendering system for PFS sites and increase of PFS sites

32. Dr CHIANG Lai-wan said that as the land leases of some PFS sites would expire from 2018 onwards, it was an opportune time for the Government to review the tendering system for these sites with a view to introducing more competition into the Hong Kong auto-fuel market. She sought more information on the planned leasing arrangement of these sites.

33. Deputy Secretary for the Environment ("DSEN") said that there would be 32 PFSs subject to retendering by 2021 and existing PFS operators would not have advantages over the new operators in the tender exercises. USEN supplemented that the Government was open to the suggestion of reviewing the tendering system of PFSs. Back in early 2000, the Government introduced a laudable new tendering arrangement that allowed firms with no import licences to bid for PFS sites and also enabled them to submit "super bids" to gain a critical mass of stations within a short time to better compete with incumbents.

The Government would discuss with the Commission further along this direction.

34. Mr Frankie YICK considered that the tendering arrangements for PFS sites should be revamped to introduce competition into the local auto-fuel market. He suggested that, as detailed in his letter (LC Paper No. CB(4)1032/16-17(06)), the Government should consider introducing into the market a pricing adjustment mechanism similar to the ceiling prices adjustment mechanism adopted for liquefied petroleum gas ("LPG") at dedicated auto-LPG filling stations. Under such mechanism, the award of PFS tender should be primarily based on the lowest fuel prices offered to customers, instead of the highest land premium offered to the Government, although land premium could be determined according to the market price of individual district. He considered that such mechanism would not lead to vehicle queues at particular PFSs for cheaper fuels as vehicle owners gave high regard to time saving and convenience in selecting PFSs.

35. Mr YIU Si-wing was of the view that the Administration should devise a mechanism to monitor the pricing of oil products set by the oil companies in revamping the tendering system for PFS sites. To facilitate monitoring by the Administration, the tenderers could be required under the new lease conditions to provide more information on the pricing formula of their oil products including the gross margin. He also shared Mr YICK's view that the land premium of PFS sites should be determined based on the market rates.

36. The Chairman called on the Administration to consider Mr YICK's proposal. He said that the land price of each PFS site varied significantly across the territory and hence it was more appropriate for the Administration to charge the land premium in accordance with the market price.

37. USEN said that while the land matter was a cross-bureau subject in the Government, it was unlikely for the Government to change the current land policy or allot new land at low premium for petrol business in the short-term. She also pointed out that the ratio of the number of PFS to vehicle in Hong Kong was similar to that of Taipei, Tokyo and Singapore, and the existing PFS sites could cater for the local demand for auto-fuel. Given the scarcity of land in Hong Kong, the Government needed to consider the different needs of the community in deciding whether more land should be allocated for use as PFS sites.

38. Having regard to the difficulty in allocating more land for PFS use, Mr CHAN Chun-ying suggested that some large PFS sites could be divided into two or more smaller sites and allotted to different operators to drive market competition in the short-term.

39. DSEN responded that some PFSs were larger than others as they simultaneously supplied diesel and/or LPG apart from petrol. The Government

would review the status of existing PFS sites to explore the feasibility of this proposal.

Fuel prices and information gathering power

40. Mr LUK Chung-hung noted that a majority of auto-fuels were currently imported from refineries in Singapore. He raised concern about the cost incurred in transporting the fuels to Hong Kong and enquired if there were other proximate sources for cheaper fuels.

41. Mr Andrew WAN pointed out that in accordance with the Census and Statistics Department, about 17% of the unleaded motor gasoline imported in 2016 was from South Korea. He asked about the possibility to source petrol from other refineries to enhance cost-effectiveness.

42. USEN explained that similar to other jurisdictions, Hong Kong imported most of its refined petrol fuels from Singapore, which was one of the major refineries in Asia. While the source of import was determined by oil companies on a cost-effective basis, it was unlikely that they would source fuels substantially from other suppliers in near future.

43. Mr Frankie YICK shared the Commission's views that the discount schemes offered by oil companies were complex and made it difficult for consumers to compare the actual prices. Such schemes were also unfair to members of the public who received less discounts than that of major customers especially for diesel.

44. USEN agreed to the Commission's recommendation to further increase the transparency of fuel price information to consumers. She said that ENB would discuss with the relevant Government departments and the oil companies on how the requirement of displaying pump prices and discounts on prominent boards at PFSs could be specified in the lease conditions when such PFS was due to be re-tendered.

45. While the Government was one of the main consumers of petrol and diesel in Hong Kong, Dr YIU Chung-yim enquired whether it had bargained for better fuel prices and contract terms with oil companies. In this regard, he asked about the information on the discount rate for each type of auto-fuels offered by relevant oil companies to the Government in bulk purchase of auto-fuels, including details of the tendering exercises and negotiation process involved and the terms applied.

(Post-meeting note: The Administration's response was circulated to members vide LC Paper No. CB(4)1205/16-17(01) on 9 June 2017.)

46. Mr LUK Chung-hung noted that the gross margins of oil companies for selling petrol and diesel had increased by 72% and 158% respectively from

2005 to 2016. He expressed concern about the reasons of such huge rises, and the information of the companies' net margins.

47. Mr Andrew WAN pointed out that following the duty exemption applied on Euro V diesel in 2008, the gross margins of the oil companies had drastically surged on diesel business. He cast doubt if such duty exemption had indeed driven up the profits of oil companies.

48. Mr Rasul BUTT of the Commission said that one way to gauge whether competition was vigorous in a market was to look at the profitability of participants. For the study, the Commission had requested oil companies to provide information on their net margins on a voluntary basis. However, such information could not be obtained as it was considered commercially sensitive by the companies. Unlike some overseas competition authorities, the Commission did not have information gathering power that would compel the production of materials when undertaking market studies. The advantage of having such power was the subject of one of the long-term recommendations contained in the report.

Structural reform to reduce entry and expansion barriers

49. Mr WU Chi-wai raised concern about the oligopolistic situation of the auto-fuel market which featured high fuel prices in Hong Kong relative to the rest of the world and such prices were similar across companies. Apart from introducing new entrants to the market, he considered it essential to reform the market structure. Otherwise, any new market players would ultimately follow the market convention to set the fuel prices parallel to those of other companies. Mr Andrew WAN shared a same concern.

50. Mr Rasul BUTT of the Commission considered that the introduction of the "super bid" tendering arrangement by the Government had facilitated new entrants in acquiring a critical mass of PFS sites within a short time to better compete with incumbents. However, substantial enhancements in competition between oil companies were unlikely to occur in the longer-term unless availability of and/or access to storage facilities could be resolved. The Commission suggested that the Government should explore alternative ways of providing economically priced terminal storage to enable new entrants to import their own supplies of auto-fuel.

51. Mr WU Chi-wai asked further about the timetable for taking forward the structural reform options, and whether the Government would consider introducing legislation to regulate the auto-fuel prices.

52. Mr Holden CHOW considered that the Government policies might have caused monopoly of the auto-fuel market, which was characterized by parallel fuel prices across companies and high entry barriers due to the difficulty to

obtain a sufficient number of PFS sites and access to terminal storage facilities. He enquired if the Government would adopt any measures to enable new entrants to enter into the market.

53. USEN stressed that there was no hard evidence to suggest that Hong Kong's auto-fuel market was being monopolized. On the competition matter, the Government endeavoured to maintain market openness and remove barriers to enter into the market. In a free market economy, similar to other consumer products-related industries, the Government did not interfere with the auto-fuel industry or regulate its pricing as far as possible. Any parties who were interested in operating PFSs and had sufficient funds could bid for PFS sites. Since the introduction of the "super bid" tendering arrangement, two new operators had obtained 35 out of the 61 PFS sites put up for tender and successfully entered the market, demonstrating that the tendering arrangement had effectively enhanced competition in the auto-fuel retail market. The Administration was prepared to consider suggestions to improve the tendering system. In response to Mr WU Chi-wai's further enquiry, USEN advised that there were no Government-owned storage facilities which could be converted to meet the additional terminal storage needs of new market entrants.

54. Mr Jeremy TAM noted that the "super bid" tendering arrangement had led to the emergence of Sinopec and PetroChina which altogether operated a significant portion of PFSs in 2015. He cast doubt if such result had effectively enhanced market competition and driven down the fuel prices, or merely reallocated the market shares to some other parties. To this end, he asked about the comparison of Hong Kong's auto-fuel prices to the international fuel prices in 2005 and 2015 respectively.

55. DSEN replied that the Government had been monitoring the auto-fuel price movement vis-à-vis that of the international fuel prices, and both of them were found to have similar movements. Nevertheless, the comparison of fuel price movements between 2005 and 2015 in Hong Kong was unavailable. He pointed out that the increase of market players under the "super bid" tendering arrangement did not guarantee a reduction of fuel prices which were determined by other factors.

56. Mr Frankie YICK stressed that although the Commission found no evidence that increases in import costs of auto-fuels were passed on more quickly than reductions, the analysis conducted by his office and the Consumer Council showed the opposite. He called on the Government to regulate the prices of auto-fuels as well as the timing of fuel price adjustments, and require oil companies to provide information on the inventory levels and sales figures of their oil products to facilitate the Government's monitoring.

57. Mr YIU Si-wing opined that auto-fuels played a vital role in daily life and it was important to maintain such prices at reasonable levels. Instead of a

free-market approach, the Government should consider regulating the prices of auto-fuels by making reference to the regulatory approaches adopted for the electricity market and the transport sector.

58. USEN responded that the electricity market and each public transport sector were regulated under respective regime. Whether and how the auto-fuel market should come under a regulatory framework would be a highly controversial subject. It would not be considered by the Government in the remainder of its current term.

59. Dr KWOK Ka-ki expressed disappointment about the Commission's findings that there was no evidence of anti-competitive conduct of the oil companies in respect of their auto-fuel businesses. He considered that competition was highly inadequate in the market which was monopolized by a few oil companies. He cast doubt on the effectiveness of the Government's work on this matter and suggested that the Competition Ordinance (Cap. 619) ("the Ordinance") should be amended to regulate the behaviour of oil companies.

60. Ms Rose WEBB, Chief Executive Officer of the Commission, explained that similar to the competition law in other jurisdictions, the Ordinance aimed to promote sustainable competition in the market by, among others, prohibiting businesses with a substantial degree of market power abusing their power to harm competition. Having regard to this objective, the Commission conducted this study with a view to analyzing the structure and behavioural characteristics of the auto-fuel market, bringing its features to the public attention, looking at the Government's policies in order to encourage better competition and making relevant recommendations. Although the Commission considered that the auto-fuel market was characterized by high barriers to entry affecting competition, it was unlikely that the Ordinance would be amended to direct the behaviours of a particular industry.

61. USEN supplemented that among the Commission's recommendations, the Government had agreed to look into the feasibility of a few short-term ones. On the long-term recommendation regarding potential structural reform options, as pointed out by the Commission in its report, many of the measures to facilitate new entrants would incur substantial costs. For example, the proposal of introducing a new open access terminal storage facility would require the provision of new land, and it was hard for the Government to mandate oil companies to rent out their storage facilities. The Government would need to carefully consider the pros and cons as well as the tenability of the recommendations before determining whether it would undertake any detailed study.

Conclusion

62. The Chairman called on the Administration to consider members' views and suggestions on the introduction of more competition into the Hong Kong auto-fuel market, and report to the Panel on the new development in due course.

VI. Any other business

63. There being no other business, the meeting ended at 12:41 pm.

Council Business Division 4
Legislative Council Secretariat
28 July 2017