

立法會
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(These minutes have been
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Establishment Subcommittee of the Finance Committee

Minutes of the 17th meeting
held in Conference Room 1 of Legislative Council Complex
on Wednesday, 16 May 2018, at 8:30 am

Members present:

Hon Mrs Regina IP LAU Suk-ye, GBS, JP (Chairman)

Hon Alvin YEUNG (Deputy Chairman)

Hon James TO Kun-sun

Hon LEUNG Yiu-chung

Hon Abraham SHEK Lai-him, GBS, JP

Hon WONG Ting-kwong, GBS, JP

Dr Hon Priscilla LEUNG Mei-fun, SBS, JP

Hon WONG Kwok-kin, SBS, JP

Hon Steven HO Chun-yin, BBS

Hon WU Chi-wai, MH

Hon Charles Peter MOK, JP

Hon CHAN Chi-chuen

Dr Hon KWOK Ka-ki

Hon KWOK Wai-keung, JP

Dr Hon Fernando CHEUNG Chiu-hung

Hon IP Kin-yuen

Dr Hon Elizabeth QUAT, BBS, JP

Hon Martin LIAO Cheung-kong, SBS, JP

Hon POON Siu-ping, BBS, MH

Dr Hon CHIANG Lai-wan, JP

Ir Dr Hon LO Wai-kwok, SBS, MH, JP

Hon CHU Hoi-dick

Hon HO Kai-ming

Hon Holden CHOW Ho-ding

Hon SHIU Ka-fai

Hon SHIU Ka-chun
Hon YUNG Hoi-yan
Dr Hon Pierre CHAN
Hon CHAN Chun-ying
Hon KWONG Chun-yu
Hon Jeremy TAM Man-ho
Hon Gary FAN Kwok-wai
Hon AU Nok-hin
Hon Vincent CHENG Wing-shun
Hon Tony TSE Wai-chuen

Members absent:

Hon CHUNG Kwok-pan

Public Officers attending:

Ms Carol YUEN Siu-wai, JP	Deputy Secretary for Financial Services and the Treasury (Treasury) 1
Mr Eddie MAK Tak-wai, JP	Deputy Secretary for the Civil Service 1
Mr Andrew LAI, JP	Deputy Secretary for Financial Services and the Treasury (Treasury) ²
Mr CHIU Kwok-kit, JP	Deputy Commissioner of Inland Revenue (Technical)
Ms LEUNG To-shan	Chief Assessor (Tax Treaty), Inland Revenue Department
Mr Alan SIU, JP	Director of Administration and Development, Department of Justice
Mr Paul TSANG	Law Officer (International Law), Department of Justice
Dr James DING	Deputy Law Officer (Treaties and Law), Department of Justice
Mr Joseph LAI, JP	Permanent Secretary for Transport and Housing (Transport)
Mr Wallace LAU, JP	Deputy Secretary for Transport and Housing (Transport) ⁴
Mr Kelvin NG	Assistant Secretary (Airport Expansion Project Coordination Office) ^A , Transport and Housing Bureau

Clerk in attendance:

Ms Connie SZETO

Chief Council Secretary (1)4

Staff in attendance:

Mr Keith WONG

Council Secretary (1)4

Ms Alice CHEUNG

Senior Legislative Assistant (1)1

Miss Yannes HO

Legislative Assistant (1)6

Ms Haley CHEUNG

Legislative Assistant (1)9

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The Chairman drew members' attention to the information paper ECI(2018-19)1, which set out the latest changes in the directorate establishment approved since 2002 and the changes to the directorate establishment in relation to the six items on the agenda. She then reminded members that in accordance with Rule 83A of the Rules of Procedure ("RoP"), they should disclose the nature of any direct or indirect pecuniary interest relating to the item under discussion at the meeting before they spoke on the item. She also drew members' attention to RoP 84 on voting in case of direct pecuniary interest.

EC(2017-18)23 Proposed creation of one permanent post of Chief Assessor (D1) in the Inland Revenue Department with effect from 3 April 2018 or upon approval of the Finance Committee, whichever is later to strengthen directorate support for spearheading international tax cooperation initiatives

2. The Chairman remarked that the staffing proposal was to create one permanent post of Chief Assessor ("CA") (D1) (designated as "CA (Tax Treaty)2" ("CA(TT)2")) in the Inland Revenue Department ("IRD") with effect from 3 April 2018 or upon approval of the Finance Committee ("FC"), whichever was later, to strengthen directorate support for spearheading international tax cooperation initiatives.

3. The Chairman pointed out that the Panel on Financial Affairs was consulted on this proposal on 8 January 2018 and it did not object to the Administration's submission of the proposal to the Establishment Subcommittee ("ESC") for consideration. Noting that the Organisation for Economic Co-operation and Development ("OECD") would assess

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Hong Kong's implementation of "automatic exchange of financial account information in tax matters" and "the package of measures to tackle base erosion and profit shifting ("BEPS package") of enterprises" in 2020, some members agreed that IRD should create the CA post as soon as possible to strengthen directorate support for ensuring the effective implementation of these two tax initiatives in Hong Kong. In addition, members also discussed the arrangements for exchange of information ("EOI") under the two aforesaid initiatives at the meeting.

Responsibilities of the proposed post of Chief Assessor (Tax Treaty)²

4. Mr CHAN Chun-ying said that in light of Hong Kong's rapid development of international tax cooperation in recent years, he was in support of creation of the proposed post to facilitate IRD to cope with the heavy workload. He noted from the Government's paper that the responsibilities of the post of CA(TT)² included representing IRD at meetings on international tax cooperation. As other countries might send officials at ministerial level to the meetings while the proposed post was only ranked at D1 level, he was concerned as to whether the ranking of the post holder would not be commensurate with that of an officer who should attend international meetings.

5. Deputy Commissioner of Inland Revenue (Technical) ("DCIR(T)") advised that some of the international tax conferences might require the attendance of officials of higher ranks, and the Commissioner of Inland Revenue would normally be the representative of Hong Kong in these types of conferences. Furthermore, there were a number of committees on taxation technical matters under OECD, participating countries would usually be represented by senior officials with rich experience in taxation matters at the meetings. CA at the rank of D1 should have possessed sufficient experience and appropriate qualifications to represent IRD at the meetings concerned.

6. Mr CHAN Chi-chuen pointed out that the Government usually created new posts on a supernumerary basis. If the tasks undertaken by the posts were of an ongoing nature, the Government would extend the posts on a permanent basis at the expiry of the supernumerary ones. He enquired about the reasons for the creation of the new post of CA(TT)² on a permanent basis as proposed by the Administration.

7. Deputy Secretary for Financial Services and the Treasury (Treasury)² ("DS(Tsy)²") advised that along with the rapid expansion of Hong Kong's external network of tax cooperation, the increasing numbers of EOI request and enquiry from taxation partners had aggravated the

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workload of the Tax Treaty Section ("TT Section") of IRD and such work would be of an ongoing nature. While the number of sub-sections under the TT Section was increased from six to nine in April 2018, the TT Section was currently led by only one CA (i.e. CA(TT)1), thus there was an imminent need to create a permanent post of CA(TT)2 to share the regular tasks of the TT Section. He added that some tax jurisdictions might attempt to seek information which was favourable to their own tax revenues from their taxation partners. To safeguard the interests of residents and companies of Hong Kong, it was imperative for the EOI requests made by other tax jurisdictions to be dealt with by directorate staff exclusively, so as to ensure that only reasonable requests that complied with international tax standards would be entertained.

8. Mr CHAN Chun-ying and Mr CHAN Chi-chuen enquired about the reasons why some of the responsibilities of CA(TT)2 were similar to those of CA(TT)1 and the division of responsibilities between the two posts.

9. In reply, DS(Tsy)2 advised that the TT Section had to deal with work involving the expansion of Hong Kong's network of Comprehensive Double Taxation Agreement ("CDTA") and Tax Information Exchange Agreement ("TIEA"). When Hong Kong had signed TIEAs with other tax jurisdictions, the TT Section was required to follow up with the implementation of the agreements. In this regard, the two CA(TT)s would divide their work based on the regions with which TIEAs were signed. In addition, the two posts were also tasked with their respective responsibilities, including overseeing the development of information technology, managing human resources and administration, and liaising with other sections of IRD. The job descriptions of the two posts were set out in Enclosure 3 of the Government's paper.

Signing tax treaties with other tax jurisdictions

10. Noting from the Government's paper that the Government targeted to increase the total number of tax jurisdictions that signed CDTAs with Hong Kong to 50 in the coming few years, Mr CHAN Chun-ying enquired about the respective numbers of Belt and Road countries involved and the major trading partners of Hong Kong among these 50 tax jurisdictions.

11. Mr James TO expressed support for the proposed creation of the post. He was of the view that in expanding the external network of tax cooperation, the Government should target at those countries that had close economic and trade exchanges with Hong Kong. Besides, Mr TO pointed out that in order to implement various international tax cooperation agreements, the Administration needed to formulate new laws and

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regulations on taxation, including a transfer pricing regulatory regime to dovetail with the implementation of BEPS package. He was worried that if a number of new taxation requirements were introduced within a short period, companies in Hong Kong would be at a loss and their tax burden would probably be increased.

12. DS(Tsy)2 remarked that currently Hong Kong had signed CDTAs with 39 tax jurisdictions, of which 20 were Belt and Road countries. According to statistics of 2016, the value of trade between Hong Kong and these 39 regions amounted to over 70% of the total external trade value of the year, which proved that these regions were Hong Kong's major trade partners. He added that the Government was negotiating the signing of CDTAs at different stages with 10 tax jurisdictions, of which half were Belt and Road countries. DS(Tsy)2 supplemented that the signing of CDTAs between Hong Kong and other tax jurisdictions could minimize the risks of double taxation or tax burden for Hong Kong residents working outside Hong Kong and Hong Kong companies having business operations outside Hong Kong. He cited an example that the CDTA just signed between Hong Kong and Saudi Arabia covered a reduction of corporation tax rate payable to Saudi Arabia by Hong Kong air carriers operating flights between Hong Kong and Saudi Arabia. CDTA could facilitate trade development among economies and reduce tax expenses for Hong Kong companies.

13. With regard to the benefits brought by the signing of CDTA to Hong Kong residents working outside Hong Kong and Hong Kong companies having business operations outside Hong Kong, Mr CHU Hoi-dick asked whether IRD had ever compiled statistics on the total amount of tax savings of Hong Kong residents or companies as a result. He also asked if Hong Kong companies had made profits from overseas businesses, whether the Government would be able to recover additional tax revenues through BEPS package from those Hong Kong companies whose business operations outside Hong Kong were profitable.

14. DCIR(T) explained that the number of applications for Certificate of Resident Status made by Hong Kong residents for claiming treaty benefit (with a view to obtaining tax concessions overseas) had been soaring in recent years, and a total of 6 895 applications were received in the 2016-2017 financial year. Given the different conditions of taxation in various places, the Government did not have information related to the tax concessions obtained by these residents. As regards the recovery of tax revenue from overseas, DS(Tsy)2 pointed out that as Hong Kong adopted a territorial source principle of taxation, only profits which had a source in Hong Kong were taxable in Hong Kong. Notwithstanding the fact that

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IRD was able to obtain from other tax jurisdictions information about the profits made by tax residents of Hong Kong overseas, these residents would not be taxed on their income earned outside Hong Kong.

15. Noting from the Government's paper that Unit 4 of IRD was currently responsible for the investigation and prosecution of tax avoidance cases, Mr CHU Hoi-dick asked how signing of tax cooperation agreements with overseas countries would facilitate IRD's investigation of fraudulent tax avoidance cases.

16. DCIR(T) advised that Unit 4 of IRD was dedicated to the investigation of local tax avoidance cases. If the cases involved overseas tax information, IRD could make requests for overseas tax information of the person being investigated from other tax jurisdictions under the tax cooperation agreements signed, with a view to facilitating the relevant investigation. He added that amendments to the Inland Revenue Ordinance (Cap. 112) were passed by the Legislative Council ("LegCo") in January 2018 to implement the tax information exchange initiatives set out in the Multilateral Convention on Mutual Administrative Assistance in Tax Matters. Under the Convention, IRD could exchange tax information with 117 tax jurisdictions, including some low or no-tax regions.

Voting on the item

17. The Chairman put the item to vote. She considered that the majority of the members voting were in favour of the item, and declared that members of the Subcommittee agreed to recommend the item to FC for approval. No member requested that the item be voted on separately at the relevant FC meeting.

EC(2017-18)25 Proposed creation of one permanent post of Deputy Principal Government Counsel (DL2) in the International Law Division ("ILD") of the Department of Justice with effect from the date of approval by the Finance Committee to better cope with the substantial increase in workload of the Treaties and Law Unit of ILD

18. The Chairman remarked that the staffing proposal was to create one permanent post of Deputy Principal Government Counsel (DL2) in the International Law Division ("ILD") of the Department of Justice ("DoJ") with effect from the date of approval by FC to better cope with the substantial increase in workload of the Treaties and Law ("T&L") Unit of

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ILD.

19. Dr Priscilla LEUNG, the Chairman of the Panel on Administration of Justice and Legal Services ("AJLS Panel"), briefed members on the discussion of the Panel. She pointed out that AJLS Panel was consulted on this proposal on 22 January 2018 and it supported the Administration's submission of the proposal to ESC for consideration. At the meeting, members were concerned that even if the staffing proposal was approved, the manpower of the T&L Unit of ILD would still be insufficient to cope with the increasing complexity and volume of work. In this connection, these members suggested that DoJ should conduct a comprehensive review on the overall staff deployment and manpower training of ILD, with a view to providing long-term solutions to the staff shortage problem. Apart from this, a member who expressed reservation about the proposal considered that DoJ should increase non-directorate posts in the T&L Unit, such as through internal deployment within ILD or deployment from other government departments, to better cope with the workload of the Unit. The member requested that the Administration provide ESC with better justification for the proposed creation of post in ILD and illustrate its necessity.

Bilateral international agreements and multilateral treaties applicable to Hong Kong

20. Pointing out that the numbers of bilateral international agreements and multilateral treaties applicable to Hong Kong had been on the rise in recent years, Mr SHIU Ka-fai expressed support for the proposed creation of post in the T&L Unit of ILD of DoJ to strengthen the relevant legal support.

21. Mr Holden CHOW asked that after signing the free trade agreement ("FTA") and the relevant investment agreement between Hong Kong and the Association of Southeast Asian Nations ("ASEAN") in November 2017, whether the holder of the proposed post would follow up with member states of ASEAN on the implementation of the agreements. He also enquired about the timing for reporting to LegCo the relevant work progress. Mr CHOW further enquired whether the proposed post would deal with the Government's signing of CDTAs with other tax jurisdictions.

22. Law Officer (International Law), Department of Justice ("LO(IL), DoJ") advised that the Government was following up the implementation of a number of FTAs with various trade partners including ASEAN. Such work was spearheaded by the Commerce and Economic Development Bureau ("CEDB"), to which the T&L Unit provided legal support. The

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proposed post would oversee the support in this respect. He added that the Government's signing of CDTAs with other tax jurisdictions was under the purview of the Financial Services and the Treasury Bureau ("FSTB"), and the T&L Unit would provide necessary legal support to FSTB.

23. In response to Mr AU Nok-hin's enquiry, LO(IL), DoJ advised that the Government was currently preparing to sign CDTAs with various countries and regions including Germany, Israel and Macao, and was having discussions about the signing of FTAs with countries such as Australia. In addition, the Government also concluded negotiations for signing Investment Promotion and Protection Agreements ("IPAs") with countries including Bahrain and Mexico. He remarked that upon signing the agreements with the relevant regions, the bureau concerned would make announcements and upload the relevant information on to the government webpage.

24. Noting from paragraph 6 of the Government's paper that there had been a significant increase in the number of legal advice given by the T&L Unit to other government departments in the past decade, Dr Fernando CHEUNG enquired whether the Administration had compiled statistics on the number of legal advice sought by individual government departments.

25. LO(IL), DoJ advised that DoJ had not compiled statistics on the information mentioned by Dr Fernando CHEUNG. He pointed out that since 2011, the number of bilateral agreements signed between Hong Kong and overseas countries or regions had been on the rise, which included a number of new types of bilateral agreements, such as FTAs that became increasingly complex. The T&L Unit had to allocate considerable resources to study the legal liabilities of the Government under these agreements. As the bilateral agreements or multilateral treaties involving trade fell under the policy purview of CEDB, the number of legal advice given by the T&L Unit to CEDB had been on the high side. Moreover, the T&L Unit also provided legal advice for the Transport and Housing Bureau on matters involving international treaties on air rights and maritime issues.

26. Dr Fernando CHEUNG asked that upon the implementation of Hong Kong and Mainland customs, immigration and quarantine procedures at the West Kowloon Station of the Guangzhou-Shenzhen-Hong Kong Express Rail Link ("XRL") (the "co-location arrangement"), whether the various bilateral cooperation agreements signed or to be signed between Hong Kong and other regions would be applicable to the Mainland Port Area ("MPA") of the West Kowloon Station.

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27. LO(IL), DoJ advised that the Government had been concerned about how the various bilateral agreements signed by Hong Kong could be applied to MPA of the West Kowloon Station under the co-location arrangement. Representatives of DoJ had also given explanation of such matters to the Bills Committee on the Co-location Bill. He pointed out that the Government would study specific ways to deal with the implementation of various agreements in MPA on a case-by-case basis.

Attendance at meetings of international justice organizations

28. Noting from the Government's paper that ILD had been taking part in events and meetings of international justice organizations, including participating in meetings of the Hague Conference on Private International Law ("HCCH") as members of the delegation of the Central People's Government ("CPG"), with a view to enhancing Hong Kong's standing in the international legal community, Mr CHU Hoi-dick raised the point that if representatives of DoJ could only attend the meetings as part of CPG's delegation, how Hong Kong's standing in the international legal community could be enhanced even though DoJ's representatives could speak at the meetings and take up the chairmanship at meetings of working groups.

29. LO(IL), DoJ remarked that as the membership of HCCH was limited to sovereign states, Hong Kong, being a special administrative region, was obliged to attend HCCH as part of the CPG's delegation under the Basic Law. Nevertheless, representatives of the Hong Kong Government would still be able to speak at the meetings under the name of "Hong Kong, China" and take up the chairmanship at meetings of working groups with the support of the Central Government. Besides, as some international organizations and international meetings, such as the Asia Pacific Economic Cooperation ("APEC"), allowed non-sovereign participants, Hong Kong could join them under the name of "Hong Kong, China" under the Basic Law. Currently, a Principal Government Counsel of the T&L Unit had taken up the role of convenor of a sub-group established under the Economic Committee of APEC. He believed that ILD would be able to enhance Hong Kong's standing in the international legal community by participating in these international meetings.

Mutual legal cooperation with the Mainland on civil and commercial matters

30. Mr AU Nok-hin expressed support for the staffing proposal. He noted that Hong Kong and the Mainland had agreed to commence discussion on reciprocal recognition of civil and commercial judgments beyond the scope of matrimonial judgments. He enquired about the

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details and progress of such work, and how the Government would address the discrepancies in interpretation of civil and commercial matters between laws of Hong Kong and the Mainland. In addition, he hoped that the creation of the proposed post could expedite the processing of reciprocal recognition of probate and estate cases between Hong Kong and the Mainland.

31. LO(IL), DoJ advised that Hong Kong and the Mainland signed an arrangement in respect of reciprocal enforcement of civil and commercial judgments in 2008, although its scope of application was limited to cases with a choice of court agreement in writing made by the parties concerned. Having regard to the increasing number of "cross-boundary marriage" cases between Mainland and Hong Kong residents in recent years, a new cooperation arrangement was entered into in 2017 for reciprocal recognition and enforcement of civil judgments in matrimonial and family cases by the courts of Hong Kong and the Mainland to provide convenience for residents of both places. Except the civil judgments in matrimonial and family cases and the civil and commercial judgments with a choice of court agreement in writing made by the parties concerned, the courts of the Mainland and Hong Kong currently had not made further arrangements for reciprocal recognition and enforcement of judgments ("REJ") in other aspects of civil and commercial matters. However, the Mainland and Hong Kong would continue to study jointly and aim to further expand the scope of civil and commercial matters to be covered under REJ. Regarding the concept of the phrase "civil and commercial matters", different jurisdictions might have different interpretations. When the relevant discussions were held between Hong Kong and the Mainland, references could be made to HCCH meetings for the interpretation of the phrase, and the matters involved could be clarified in the relevant provisions of juridical assistance arrangements. He supplemented that the Legal Policy Division ("LPD") of DoJ was currently responsible for discussing with the Mainland REJ in civil and commercial matters while ILD, with its knowledge and experience gained from handling cross-boundary cases, would assist LPD in this respect.

32. Dr Priscilla LEUNG expressed support for the staffing proposal. She pointed out that Taiwan and the Mainland entered into reciprocal recognition of judgments in civil and commercial matters delivered by the courts of the two places as early as 1990s, and the progress of reciprocal recognition between Hong Kong and the Mainland had lagged far behind. Apart from expediting the creation of the proposed post, she also urged the Administration to increase the number of non-directorate staff members in the T&L Unit to cope with the substantial work involving international legal cooperation.

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33. Director of Administration and Development, DoJ said that two posts of one senior government counsel and one government counsel would be created in the T&L Unit in 2018-2019 to strengthen non-directorate support. The Government would also continue to review the work of the T&L Unit so as to consider the need for further staffing adjustment.

Work of the Mutual Legal Assistance Unit

34. Noting from Enclosure 3 of the Government's paper that there was a significant increase in the number of requests for mutual legal assistance involving surrender of fugitive offenders, transfer of sentenced persons and child abduction made and received by the Mutual Legal Assistance ("MLA") Unit of DoJ between 2007 and 2017, Mr CHU Hoi-dick sought the breakdown of these three types of cases. Mr AU Nok-hin enquired about the number of child abduction cases dealt with by the MLA Unit over the past five years, as well as the international conventions which provided the basis for dealing with the child abduction cases.

35. In reply, LO(IL), DoJ advised that the number of cases in respect of MLA in criminal matters (such as provision of evidence) and transfer of sentenced persons dealt with by the Government increased significantly in recent years, while that of cases involving surrender of fugitive offenders was generally stable. As regards the child abduction cases, the MLA Unit processed the international child abduction cases and the related requests under the Convention on the Civil Aspects of International Child Abduction signed at the Hague in 1980. During the period from 2013 to 2017, 30 requests for return of abducted children and one request for access to children were made to the international arena under the aforementioned Convention while 22 requests for return of abducted children and three requests for access to children made by other regions were received. These requests had been handled properly in accordance with the laws of Hong Kong. He undertook to provide a detailed statistical breakdown in due course.

(Post-meeting note: Information provided by the Administration was issued to members on 24 May 2018 vide LC Paper No. ESC130/17-18(01).)

36. Mr CHU Hoi-dick pointed out a recent criminal case involving Hong Kong people in Taiwan, of which the investigation was hindered by the absence of MLA in criminal matters or arrangements for surrender of fugitive offenders between Hong Kong and Taiwan. He enquired about the mechanism for handling cases involving Hong Kong people that took

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place in places without MLA agreements.

37. Mr Holden CHOW was of the view that the Government should endeavour to sign MLA agreements with those regions with which no juridical assistance arrangements had been reached so far, with a view to preventing situations where criminal cases could not be handled properly due to the lack of MLA between the two places, resulting in injustice.

38. LO(IL), DoJ advised that cases that occurred in places where no agreement on the surrender of fugitive offenders had been signed with Hong Kong would be dealt with in accordance with the Fugitive Offenders Ordinance (Cap 503). Mr Holden CHOW's view was noted. He added that it was not appropriate for him to comment on the case mentioned by Mr CHU Hoi-dick as criminal investigation on the case was underway.

Voting on the item

39. The Chairman put the item to vote. She considered that the majority of the members voting were in favour of the item, and declared that members of the Subcommittee agreed to recommend the item to FC for approval. No member requested that the item be voted on separately at the relevant FC meeting.

EC(2017-18)24 Proposed creation of three supernumerary posts of one Principal Government Engineer (D3), one Administrative Officer Staff Grade C (D2) and one Chief Engineer (D1) in the Airport Expansion Project Coordination Office, Transport Branch of the Transport and Housing Bureau for about seven years up to 31 March 2025 with immediate effect upon approval of the Finance Committee to continue monitoring the work of the Airport Authority Hong Kong and coordinating with relevant parties the implementation of the Three-Runway System project at the Hong Kong International Airport

40. The Chairman remarked that the staffing proposal was to create three supernumerary posts of one Principal Government Engineer (D3), one Administrative Officer Staff Grade C (D2) and one Chief Engineer (D1) in the Airport Expansion Project Coordination Office ("AEPCO"), Transport Branch of the Transport and Housing Bureau ("THB") for about seven years up to 31 March 2025 with immediate effect upon approval of FC to

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continue monitoring the work of the Airport Authority Hong Kong ("AAHK") and coordinating with relevant parties the implementation of the Three-Runway System ("3RS") project at the Hong Kong International Airport ("HKIA").

41. The Chairman pointed out that the Administration consulted the Panel on Economic Development of LegCo on this proposal on 27 November 2017. The proposal was submitted to ESC for consideration on 5 February 2018 and was negated. The Administration subsequently provided a supplementary information paper (ESC94/17-18(01)) and submitted afresh the proposal to ESC for consideration. The Chairman said that as she had already briefly presented the main issues discussed by the Panel on Economic Development at the meeting on 5 February 2018, she would not repeat.

42. Mr CHU Hoi-dick asked that after the staffing proposal was negated, whether the Administration had updated the discussion paper for ESC's re-consideration.

43. Permanent Secretary for Transport and Housing (Transport) ("PSTH(T)") and Deputy Secretary for Transport and Housing (Transport)4 ("DSTH4") advised that a number of concerns had been raised by the Subcommittee at its meeting on 5 February 2018, including the management issues of various projects under the 3RS project, the responsibilities of AEPCO, the division of responsibilities between AEPCO and AAHK on the implementation of the 3RS project, as well as the financial arrangements for the projects. The Government had updated the discussion paper and provided additional information to comprehensively address members' concerns and comments.

Responsibilities of the proposed posts

44. Mr Tony TSE expressed support for the staffing proposal. He pointed out that the three proposed supernumerary directorate posts had lapsed on 1 April 2018. He enquired about ways to deal with the work originally undertaken by these posts before their re-creation. In addition, Mr TSE enquired how AEPCO would monitor AAHK in performing the relevant environmental impact assessments ("EIAs") of the 3RS project.

45. PSTH(T) advised that after the three directorate posts had lapsed on 1 April 2018, the work originally undertaken by these posts had to be allocated to directorate staff of other sections of THB. As AEPCO was required to deal with a substantial amount of work in connection with engineering expertise, given that the two directorate posts of engineer grade

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had lapsed, directorate support required by such work was currently taken up by administrative grade officers in the interim, which was undesirable. Thus, the Government hoped that FC could approve the proposal of creating afresh the three supernumerary directorate posts as early as possible. As regards the work related to EIAs, the Environmental Protection Department ("EPD") had a statutory obligation to carry out enforcement and monitor AAHK's work in this regard. AEPCO would not affect the statutory work of EPD, instead it would act as an additional monitoring body to ensure that AAHK fulfilled its pledge made in the EIA report of the 3RS project and met the statutory requirements of EPD.

Construction works of the 3RS project of the Hong Kong International Airport

46. Mr Jeremy TAM and Dr KWOK Ka-ki enquired whether there were any delays or cost overruns since the commencement of the construction works of the 3RS project. Mr Tony TSE also asked how AEPCO would monitor the financial arrangement and expenditure of works of the 3RS project to ensure that the cost of works would not overrun.

47. Mr SHIU Ka-fai expressed support for the staffing proposal. He pointed out that the 3RS project was an important infrastructure project of Hong Kong, and he hoped that the creation of the three proposed posts could enhance AEPCO's monitoring of the 3RS project to ensure its quality and that no cost overrun would occur.

48. PSTH(T) advised that since the commencement of the construction works of the 3RS project in August 2016, AAHK had awarded 14 main construction contracts with a total contract value of \$41.1 billion, which accounted for a considerable portion in the total budget of \$141.5 billion of the whole 3RS project, and there had been no cost overrun or delay of the construction works so far. He supplemented that AEPCO had been giving advice to AAHK on the financial arrangement of the 3RS project. For instance, AAHK had taken into account the views of the Government and the stakeholders, and reduced the Airport Construction Fee to below \$180 and applied differential charging levels which distinguished long haul passengers from short haul passengers, first class and business class passengers from economy class passengers, and origin/destination passengers from transfer/transit passengers.

49. Mr Jeremy TAM said that given that there had been no cost overrun in the construction works of the 3RS project so far, and the responsibilities of the proposed posts covered the monitoring of works to ensure that no cost overrun would occur, he and other members of the Civic Party would

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support this staffing proposal. In addition, he enquired about the timing for completing and publishing the HKIA Master Plan 2035.

50. PSTH(T) replied that AAHK targeted to complete and publish the HKIA Master Plan 2035 in the second half of 2018. He added that as AAHK was engaged in work related to the 3RS project in the past few years, it had not started its work related to the formulation of the HKIA Master Plan 2035 until the commencement of the construction works in 2016. However, it was believed that the timing of publishing the Plan would not affect the long-term development of the airport.

Occupational safety measures on construction sites

51. Mr POON Siu-ping said that he was not opposed to the staffing proposal. He pointed out that while it was stated in the Administration's paper that AEPCO would ensure that AAHK's contractors would fully comply with all relevant statutory requirements on worker-related issues, it did not mention how it could ensure that the safety of workers on the construction sites was well protected. He enquired how AEPCO would ensure safety on sites to avoid accidents.

52. DSTH4 advised that AAHK was responsible for the implementation of the 3RS project, and was duty-bound to ensure that the construction sites had complied with the statutory safety requirements. AEPCO would assist AAHK and its contractors in enhancing the safety level of the construction sites. For example, AAHK would be requested to carry out independent checking for safety on the sites and provide the Government with statistics of accident frequency rate ("AFR") of the sites for monitoring the situation. PSTH(T) added that up to February 2018, the average annual AFR for the 3RS project was 2.3 cases per 1 000 workers, which was lower than the target rate of 6.0 cases set by AAHK. It was also lower than the average AFR of the Hong Kong construction industry of 34.5 cases in 2016 as reported by the Labour Department. This reflected the effectiveness of AAHK's effort in ensuring occupational safety.

53. Dr KWOK Ka-ki enquired how AAHK would provide appropriate occupational safety training for workers. Furthermore, he pointed out that a number of fatal construction accidents in respect of the Hong Kong-Zhuhai-Macao Bridge ("HZMB") project had occurred in the past. He requested the Administration to provide supplementary information on whether the contractors awarded with the 14 main construction contracts of AAHK had been involved in any fatal construction accident in respect of the HZMB project.

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54. Assistant Secretary (Airport Expansion Project Coordination Office)A, Transport and Housing Bureau advised that an independent consultant had been engaged by AAHK to provide workers with safety training dedicated to marine works. PSTH(T) agreed to provide supplementary information on the details of safety training provided for workers by AAHK, as well as the background information of the contractors awarded with the 14 main construction contracts, including whether they had been involved in any fatal construction accident in respect of the HZMB project.

(Post-meeting note: Information provided by the Administration was issued to members on 29 May 2018 vide LC Paper No. ESC132/17-18(01).)

55. The Chairman remarked that as some members were still waiting for their turn to ask questions, the Subcommittee would continue the discussion on this item at the meeting on 29 May 2018.

56. The meeting ended at 10:29 am.

Council Business Division 1
Legislative Council Secretariat
14 June 2018