

立法會
Legislative Council

LC Paper No. CB(4)732/19-20
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by the Administration)

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Panel on Economic Development

Minutes of meeting
held on Monday, 27 April 2020, at 10:45 am
in Conference Room 1 of the Legislative Council Complex

Members present : Hon CHUNG Kwok-pan (Chairman)
Hon WU Chi-wai, MH (Deputy Chairman)
Hon James TO Kun-sun
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon WONG Ting-kwong, GBS, JP
Hon Starry LEE Wai-king, SBS, JP
Hon Mrs Regina IP LAU Suk-ye, GBS, JP
Hon Paul TSE Wai-chun, JP
Hon Claudia MO
Hon Steven HO Chun-yin, BBS
Hon Frankie YICK Chi-ming, SBS, JP
Hon YIU Si-wing, BBS
Hon Kenneth LEUNG
Hon Christopher CHEUNG Wah-fung, SBS, JP
Hon Elizabeth QUAT, BBS, JP
Ir Dr Hon LO Wai-kwok, SBS, MH, JP
Hon Andrew WAN Siu-kin
Hon Jimmy NG Wing-ka, BBS, JP
Dr Hon Junius HO Kwan-yiu, JP
Hon Holden CHOW Ho-ding
Hon SHIU Ka-fai, JP
Hon CHAN Chun-ying, JP
Hon LUK Chung-hung, JP
Hon Jeremy TAM Man-ho

Members attending : Hon Tommy CHEUNG Yu-yan, GBS, JP
Hon Martin LIAO Cheung-kong, GBS, JP
Hon HO Kai-ming
Hon KWONG Chun-yu

Members absent : Hon WONG Kwok-kin, SBS, JP
Hon Dennis KWOK Wing-hang
Hon CHU Hoi-dick

Public Officers attending : Agenda item III

Transport and Housing Bureau

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

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

Air Accident Investigation Authority

Mr LEUNG Man-fat
Chief Inspector

Agenda item IV

Commerce and Economic Development Bureau

Ms Vivian SUM, JP
Deputy Secretary for Commerce and Economic
Development (Commerce and Industry) 1

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

Environment Bureau

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

Mr TSE Chin-wan, BBS, JP
Under Secretary for the Environment

Ms Irene YOUNG, JP
Deputy Secretary for the Environment

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

Related organization : Agenda item IV
Competition Commission
Ms Anna WU
Chairperson
Mr Brent SNYDER
Chief Executive Officer
Mr Rasul BUTT
Senior Executive Director

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

Staff in attendance : 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

I. Information papers issued since the last meeting

(LC Paper No. CB(4)319/19-20(01) — Administration's response to the letter from Hon Jeremy TAM Man-ho dated 6 January 2020 on the Airport Construction Fee as set out in LC Paper No. CB(4)241/19-20(01)

LC Paper No. CB(4)336/19-20(01) — Tables and graphs showing the import and retail prices of major oil products from January 2018 to December 2019 furnished by the Census and Statistics Department

LC Paper No. CB(4)370/19-20(01) — Tables and graphs showing the import and retail prices of major oil products from February 2018 to January 2020 furnished by the Census and Statistics Department

LC Paper No. CB(4)377/19-20(01) — Hong Kong Tourism Board's response to the letter from Hon Charles Peter MOK dated 7 January 2020 on issues relating to the Hong Kong New Year Countdown Lucky Draw as set out in LC Paper No. CB(4)242/19-20(01) (Chinese version only)

LC Paper No. CB(4)454/19-20(01) — Tables and graphs showing the import and retail prices of major oil products from March 2018 to February 2020 furnished by the Census and Statistics Department)

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

II. Items for discussion at the next meeting

(LC Paper No. CB(4)487/19-20(01) — List of outstanding items for discussion

LC Paper No. CB(4)487/19-20(02) — List of follow-up actions)

2. Members noted the following items proposed by the Administration for the discussion at the next regular meeting scheduled for Monday, 25 May 2020 at 10:45 am –

(a) Lei Yue Mun Waterfront Enhancement Project; and

(b) Update on Hong Kong Disneyland Resort.

3. Mr SHIU Ka-fai suggested discussing "Hong Kong Tourism Board Work Plan for 2020-2021" on the list of outstanding items for discussion instead of discussing item (b) above, as it was more pressing for the Panel to review the recovery measures to be put forward by the Hong Kong Tourism Board ("HKTB") for local tourism after the Coronavirus Disease 2019 ("COVID-2019") epidemic had been brought under control. Sharing a similar view, Mr YIU Si-wing considered it more important to ask HKTB to brief the Panel its trade-support-plan to reinvigorate tourism at the forthcoming meeting. The Chairman instructed the Clerk to follow up with the Administration on members' request.

(Post-meeting note: Arrangement was made for the Panel to discuss "Hong Kong Tourism Board Work Plan for 2020-2021" together with item (a) above at the meeting on 25 May 2020. The notice of meeting was issued via LC Paper No. CB(4)517/19-20 on 5 May 2020.)

III. Permanent set-up and staffing proposals of Air Accident Investigation Authority

(LC Paper No. CB(4)486/19-20(01) — Administration's paper on the permanent set-up and staffing proposals of Air Accident Investigation Authority

LC Paper No. CB(4)257/19-20(05) — Paper on the set-up and staffing establishment of Air Accident Investigation Authority prepared by the Legislative Council Secretariat (background brief))

Other papers

(LC Paper Nos. —	Submission from the Hong
CB(4)388/19-20(01)	and Kong Airline Pilots Association
CB(4)444/19-20(01)	on the set-up and staffing proposals of the Air Accident Investigation Authority and the Administration's response (English version only))

Presentation by the Administration

4. At the invitation of the Chairman, Permanent Secretary for Transport and Housing (Transport) ("PSTH") briefed members on the permanent set-up of the Air Accident Investigation Authority ("AAIA") established under the Transport and Housing Bureau and the staffing proposals in AAIA. The staffing proposals were as follows: (i) to make permanent one non-civil service ("NCS") position equivalent to the rank of D2, to be designated as Chief Accident and Safety Inspector ("CASI") to lead AAIA; (ii) to create one permanent NCS position equivalent to the rank of D1, to be designated as Deputy Chief Accident Safety Inspector ("Deputy CASI"); and (iii) to create one supernumerary Assistant Director-General of Civil Aviation ("ADGCA") (D2) post up to 31 March 2022 as a stop-gap measure to lead AAIA, pending the completion of open recruitment exercise of the CASI position in (i) above. Details were set out in LC Paper No. CB(4)486/19-20(01). PSTH also briefed members on the latest developments of AAIA, namely the signing of a memorandum of co-operation between AAIA and the Civil Aviation Department ("CAD") for enhanced collaboration and communication in regards of air accident and incident investigations, and the establishment of an expert panel to give advice to AAIA on air accident and incident investigations. So far, four local experts had agreed to join the expert panel.

Discussion

The staffing proposals

5. Mr Kenneth LEUNG noted that the staffing proposal to make permanent the CASI position was introduced to the Legislative Council after the time-limited CASI position had expired on 31 March 2020. He therefore questioned the planning of the Administration in this regard. Furthermore, he noted the proposed transitional arrangement to create a supernumerary ADGCA position as a stop-gap measure, and that the ADGCA position would be filled by identifying an existing civil servant in CAD with relevant accident and safety investigation experiences at suitable seniority. He queried if the CAD officer concerned would have conflict of interests under such an arrangement if CAD was the target of investigation of a case. He was worried that the arrangement would undermine the independence of AAIA, and that it would have implications on the reputation of AAIA among other air accident investigation authorities in the world. He thus sought further information on the relevant transitional arrangement. He also considered the two-year period for the proposed ADGCA position long.

6. Ms Claudia MO was of the view that the proposed transitional arrangement would compromise the independence of AAIA from the Government. Mr Jeremy TAM was worried that the International Civil Aviation Organization ("ICAO") would adjust Hong Kong's grading downward in regards of air accident investigation authority if the proposed transitional arrangement was approved. He said that any downgrading might pose serious impact to Hong Kong's aviation industry. For example, airlines in Hong Kong might have to pay higher insurance premium if the relevant grading was adjusted downward.

7. PSTH admitted that the proposed transitional arrangement was not ideal, but was necessary for maintaining the smooth operation of AAIA. The Administration would like to properly determine AAIA's long-term organizational set-up and personnel ranking in an objective manner. Therefore, a review for the long-term arrangement was carried out only after AAIA had been in operation for a reasonable period. It was conducted and completed within 2019. He remarked that the impartiality and independence of AAIA were clearly stipulated in the law, and that anyone who took up the ADGCA position should abide by the relevant law. Under the proposed transitional arrangement, the CAD officer to be identified would not be given the option to revert to CAD after taking up the ADGCA position in order to avoid any

perceived conflict of interests or implications on the impartiality of AAIA's investigations. Furthermore, he clarified that in accordance with the requirement of ICAO, an accident investigation authority should be independent from State aviation authorities and other entities that could interfere with the conduct or objectivity of an investigation. In the context of Hong Kong, AAIA should be independent from CAD.

8. Deputy Secretary for Transport and Housing (Transport) 4 ("DSTH4") assured members that the chance that ICAO would downgrade AAIA was very slim. He informed the meeting that the Administration had reported matters relating to the transitional arrangement to ICAO in writing. ICAO noted the written communication and raised no doubts about the proposed arrangement. PSTH advised that in drawing up the two-year period for the proposed ADGCA position, the experience in the recruitment of the previous time-limited CASI, which took 14 months, had been taken into consideration. The supernumerary ADGCA position was proposed to be created for up to two years, and that it would lapse upon the successful filling of the CASI position by open recruitment and in any case no later than 31 March 2022.

9. Mr Jeremy TAM enquired if the ADGCA under the proposal would be in charge of the recruitment process of the proposed CASI position. He was of the view that the ADGCA would have a conflict of interests if the latter was involved in the relevant recruitment process. The post-holder might be tempted to delay the recruitment of CASI as it would mean that he could stay in the position for a longer period. In response, PSTH advised that there was an established mechanism within the Government to deal with situations of any perceived conflict of interests and that he himself would be in charge of the recruitment process.

10. Ir Dr LO Wai-kyok supported the establishment of AAIA which was in accordance with ICAO's requirements. He also expressed support for the staffing proposal to make permanent the NCS CASI position. Noting that the time-limited CASI position approved by the Finance Committee ("FC") in July 2017 was filled 14 months later in September 2018, he enquired about the reasons for taking more than one year to fill the position. Furthermore, he noted that the Chief Inspector of AAIA was currently leading AAIA, and asked if this arrangement was temporary. He also enquired if there was any target candidate to fill the permanent CASI position.

11. PSTH advised that it took 14 months to fill the CASI position approved by FC in July 2017, as it was a global recruitment exercise and took time for

selection. Also, time was then required for the selected candidate to make his own relevant arrangements before reporting for duty. The broad knowledge and expertise required of the candidate was another reason for the longer time needed to select a suitable candidate.

12. DSTH4 advised that the arrangement for Mr LEUNG Man-fat to lead AAIA as the Chief Inspector was only temporary. Mr LEUNG had more than 40 years of experience in the aviation industry and had participated in investigation work of different nature and scope, and therefore had the required capabilities to lead AAIA under the current temporary arrangement. He added that the Administration would adopt an objective approach in selecting the CASI under the proposal to ensure that the post-holder would possess the necessary qualifications and experience. Upon Ir Dr LO Wai-kwok's further enquiry, DSTH4 confirmed that the CASI who worked for AAIA from September 2018 to March 2020 had already left AAIA upon the lapse of the position at the end of his contract.

13. The Deputy Chairman said that he had no question on the set-up of AAIA but was of the view that if it was so difficult to find a suitable candidate to fill the CASI position, the Administration should have devised administrative means to retain the previous time-limited CASI, whose position had expired on 31 March 2020. He considered retaining the previous CASI, instead of the proposed transitional arrangement, would help better preserve the independence of AAIA. Furthermore, he noted that the CAD officer identified to take up the time-limited ADGCA position in AAIA would not be given the option to revert to CAD, and that majority of the investigators in AAIA were from CAD. To preserve AAIA's independence, he suggested that AAIA should provide training to its officers so that AAIA could segregate more clearly from the civil service and CAD.

14. PSTH replied that the Administration attached great importance to preserving the independence of AAIA. However, as most people who possessed experience of air accident and incident investigation in Hong Kong were from CAD, the flexibility to post CAD staff to AAIA should be allowed. Most importantly, CASI should be independent from CAD. In addition, AAIA could recruit a maximum of three additional investigators on NCS Contract terms in future depending on operational needs. In other words, AAIA had the flexibility to recruit investigators from outside the civil service and who were not from CAD. This arrangement would be particularly crucial in upholding the impartiality of AAIA should CAD become an interested party in an investigation.

15. Upon the enquiry from the Deputy Chairman, PSTH confirmed that the CAD officer who took up the time-limited ADGCA position in AAIA could also apply for the permanent CASI position. However, this officer would not have any advantage over other candidates in the selection process. Furthermore, DSTH4 confirmed that the funding for and the position of CASI approved by FC in July 2017 had already expired on 31 March 2020, meaning that the previous CASI would not be able to stay in the position beyond that date.

(Post-meeting note: The Deputy Chairman wrote to the Panel on 27 April 2020 to make further enquiries about the staffing proposals (LC Paper No. CB(4)516/19-20(01)) (Chinese version only). The Administration's response to the letter was issued to members vide LC Paper No. CB(4)609/19-20(01) on 25 May 2020.)

16. Ms Claudia MO was concerned if the remuneration package of the proposed CASI position was attractive enough to attract potential candidates. She also enquired about the contract terms of the proposed CASI position, in particular about the term of service of the post-holder. PSTH advised that the open recruitment exercise for the time-limited CASI position had received overwhelming response from applicants. In response to Ms MO's enquiry about AAIA's scope of investigation, PSTH advised that AAIA was responsible for conducting investigations into all accidents and serious incidents related to civil aircraft that happened within the Hong Kong territory and also those involving Hong Kong-registered civil aircraft and/or Hong Kong citizens that happened outside Hong Kong.

17. Mr CHAN Chun-ying expressed support for the permanent set-up of AAIA and the staffing proposals. He noted that the Administration foresaw that the workload of AAIA would increase in the coming years which necessitated a senior deputy to share out the workload of CASI. He enquired about the basis of the anticipated increase in case load as global air transport had shrunk significantly due to the outbreak of COVID-19 epidemic. He expected that the number of air accidents and incidents would decrease following the decline in global air traffic. In this connection, he asked if the Deputy CASI should report duty at a later time.

18. PSTH advised that at the time when the staffing proposal was drawn up, it was anticipated that air traffic in Hong Kong would increase in the coming years, which would increase the workload of AAIA. Although the operation of the Hong Kong International Airport and the aviation industry had been significantly curtailed as the COVID-19 outbreak set in, it was foreseen that the growth of the aviation industry in Hong Kong and worldwide would pick up again when the epidemic subsided.

AAIA's investigation work and developments

19. Mr CHAN Chun-ying noted that AAIA had so far published one investigation report, and had completed the investigations of eight cases. He enquired when the investigation reports of the eight cases would be published. PSTH advised that for the eight cases the investigation of which had been completed, the relevant reports had been prepared and been sent to various individuals/companies concerned for their representations and/or comments. The reports might be amended as necessary before they were published.

20. Mr YIU Si-wing noted that there were 16 ongoing cases of air accident/serious incident investigations. He suggested that in order not to accumulate too many cases, AAIA should speed up the investigations into air accidents and designate a time frame for investigations into serious incidents. He was of the view that shorter investigation time was conducive to the timely prevention of similar accidents and incidents in future. In this regard, he asked if there was any room for improvement in terms of the time spent on investigations. He also enquired if AAIA had encountered any difficulties when participating in air accident and incident investigations overseas, and what parties might assist AAIA if any such difficulties arose.

21. DSTH4 explained that the investigation time for different cases would vary depending on the elements involved, particularly if fatalities were involved. He said that comparing with the days when investigations of air accidents and incidents were conducted by CAD officers on top of their day-to-day duties, improvement had been made after the establishment of AAIA. The Administration would continue to explore ways to enhance investigation progress. More efforts would be put into identifying trends of accidents and organizing more workshops to promote accident prevention in the coming years. He also advised that no particular difficulties were encountered in AAIA's cooperation with overseas air accident investigation authorities.

22. Mr Holden CHOW considered that CASI's workload relating to investigation was heavy. Noting that the proposed Deputy CASI would share out CASI's international obligations, he enquired if more than one deputy would be required to help share out the heavy workload of CASI. He was worried that inadequate manpower in AAIA would affect the standard and handling of investigations, and sought information on the manpower establishment of AAIA.

23. PSTH advised that the proposed Deputy CASI was meant to share out

CASI's investigation duties as well as other duties so that AAIA could manage the different aspects of work under its purview. DSTH4 further said that apart from the Deputy CASI, CASI was underpinned by four investigators who would work as a team with CASI and the Deputy CASI.

24. Mr CHAN Chun-ying asked if the expert panel would be incorporated into the official structure of AAIA. DSTH4 advised that the establishment of the expert panel aimed to assist AAIA's investigation work. Experts in the panel would be invited to give advice on the disciplines where their expertise lay. However, they would not be involved in the investigation work per se.

25. Mr Jeremy TAM sought information on the four local experts who had agreed to join the expert panel and the content of the memorandum of co-operation signed recently between AAIA and CAD. DSTH4 advised that the four local experts were Ir Mr Warren CHIM, Honorary Secretary of Aircraft Division Committee, Hong Kong Institution of Engineers; Ir Prof MAN Hau-chung, Dean of the Faculty of Engineering, the Hong Kong Polytechnic University; Prof QIU Huihe, Head & Professor of Mechanical and Aerospace Engineering, the Hong Kong University of Science and Technology; and Mr Manuel SUM, ex-Assistant Director-General (Air Traffic Management) of CAD. The memorandum of co-operation, in recognizing AAIA as the independent accident investigation authority of Hong Kong, mainly set out the division of work between AAIA and CAD in relation to air accident and incident investigations and air accident prevention. It helped standardize and institutionalize certain aspects of work between AAIA and CAD, including notification of occurrences, information sharing, responsibilities of their respective experts, etc. Mr TAM requested the Administration to provide a copy of the memorandum of co-operation after the meeting.

(Post-meeting note: The Administration's response was issued to members vide LC Paper No. CB(4)644/19-20(01) on 27 May 2020.)

Conclusion

26. The Chairman concluded that the Panel was generally supportive of the staffing proposals under the agenda item and that members could raise further questions on the proposals at the future meetings of the Establishment Subcommittee and FC.

IV. Report on the work of the Competition Commission

(LC Paper No. CB(4)487/19-20(03) — Competition Commission's report on its work

LC Paper No. CB(4)487/19-20(04) — Paper on the work of the Competition Commission prepared by the Legislative Council Secretariat (updated background brief))

Other papers

(LC Paper No. CB(4)449/19-20(01) — Letter from Hon Holden CHOW Ho-ding dated 26 March 2020 regarding the retail prices of auto-fuels in Hong Kong (Chinese version only)

LC Paper No. CB(4)491/19-20(01) — Letter from Hon Andrew WAN Siu-kin dated 21 April 2020 regarding the competition condition of the auto-fuel market in Hong Kong (Chinese version only)

LC Paper No. CB(4)493/19-20(01) — Administration's consolidated response to the letters from Hon Holden CHOW Ho-ding and Hon Andrew WAN Siu-kin respectively dated 26 March and 21 April 2020)

Presentation by the Competition Commission

27. At the invitation of the Chairman, Ms Anna WU, Chairperson of the Competition Commission ("the Commission") briefed members on various aspects of the Commission's work on law enforcement, legal proceedings and policy advisory and advocacy since the last report made to the Panel in April 2019 and provided an outlook for the coming year. Details of the briefing were set out in the paper provided by the Commission (LC Paper No.

CB(4)487/19-20(03)). Ms WU also expressed her gratitude to Members and the Government for their support during her chairmanship which would end by 30 April 2020.

Discussion

Competition issues related to online travel agents

28. Mr YIU Si-wing referred to the Commission's concerns over certain clauses in the agreements of three major online travel agents ("the OTAs") with accommodation providers in Hong Kong that might harm competition. He understood that the OTAs had offered commitments to address the Commission's concerns. He asked what the consequences would be if the OTAs' proposed commitments were not accepted by the Commission.

29. Mr Brent SNYDER, Chief Executive Officer of the Commission replied that the existing clauses between the OTAs and accommodation providers in Hong Kong required the latter to always give the OTAs the same or better terms as those they offered in all other sales channels, as regards room prices, room conditions and/or room availability. The Commission considered that these clauses might have the potential of contravening the First Conduct Rule of the Competition Ordinance (Cap. 619) ("the Ordinance"). The Commission had launched a consultation on the commitments offered by the OTAs to remove the clauses of concern in their existing and future contracts with accommodation providers. In the event that the Commission found the proposed commitments inadequate after assessing the representations received, the Commission could request the OTAs to strengthen their commitments. In case the Commission could not reach a resolution with the OTAs through commitments, the Commission might take the enforcement action of issuing a warning notice to them.

30. Mr YIU Si-wing further asked if similar OTAs' agreements with overseas accommodation providers regarding services provided to Hong Kong people would be subject to the same competition concerns. In response, Mr Brent SNYDER of the Commission explained that the Commission did not have jurisdiction over matters outside Hong Kong unless they involved agreements and conduct that had the object or effect to prevent, restrict or distort competition in Hong Kong. Ms Anna WU of the Commission supplemented that since this was an international issue, the Commission had been working closely with its overseas counterparts to deal with the matter.

Competition in the auto-fuel market in Hong Kong

31. Mr LUK Chung-hung expressed concern that local drivers, especially those engaging in the transport sector, had long been suffering from high auto-fuel prices which were quick in rising and slow in reducing. Pointing out that auto-fuel prices remained high at some HK\$16 currently, he considered that there was room for further reduction when the international oil prices had recently plunged to a record low. He urged the Environment Bureau ("ENB") to step up the monitoring of oil companies so as to avoid them from earning an unreasonably high yield.

32. Under Secretary for the Environment ("USEN") explained that as Hong Kong had no oil refinery, all auto-fuels sold locally were imported refined oil products instead of crude oil. Crude oil and refined oil (such as unleaded petrol and motor vehicle diesel) were different products. Therefore, changes in international crude oil price were not necessarily the same as changes in the prices of unleaded petrol and motor vehicle diesel. In analyzing the adjustments of local auto-fuel prices, it was more appropriate to make reference to the trend movements of Means of Platts Singapore ("MOPS") and the import prices that oil companies paid.

33. Mr Andrew WAN considered ENB's explanation not convincing. He was of the view that although local auto-fuel prices might not change according to the international crude oil prices, it was unjustified that the reduction magnitude of the retail prices of auto-fuels was smaller than that of the import prices. He opined that this situation was abnormal and unfair to local drivers and asked if ENB had any counter measures to resolve the problem.

34. Mr KWONG Chun-yu pointed out that the prolonged high retail prices of auto-fuels had imposed a heavy burden not only on local drivers but also the general public who relied on public transports. Being the most expensive in the world, the local auto-fuel prices currently stood at some HK\$16 per litre which was much higher than that of other places. Comparing the drastic drop of international oil prices versus the movements of local auto-fuel prices, he urged ENB to impose effective measures to help the public out of the "rockets and feathers" pricing imposed by oil companies.

35. USEN explained that the oil companies had already lowered their prices 11 times, by a cumulative \$1.5 per litre, since January 2020 whereas the reduction in Singapore was about \$1.7 per litre. With the significant fluctuations in international oil prices, oil companies had made adjustments

eight times since March 2020, which were more frequent than before. He also mentioned that the reduction on diesel prices in Singapore was about \$1.35 per litre while the decrease in Hong Kong reached \$1.5 per litre.

Admin

36. Ir Dr LO Wai-kwok said that the auto-fuel prices in Hong Kong were widely considered the most expensive in the world and people from all walks of life had been suffering from this problem. To facilitate members' monitoring of auto-fuel prices, he requested ENB to provide information on the analysis tool to deduce the changes in retail prices of refined oil products in Hong Kong due to the fluctuation of international prices of crude oil and the expected time intervals of the changes.

37. Mr Jeremy TAM said that it was obvious that the oil companies were engaging in collusion activities since the retail prices of auto fuels of two oil companies were the same in nine out of the recent 14 days while the retail prices of two other firms differed by just 10 cents according to the Government statistics. The "rockets and feathers" phenomenon of local auto-fuel prices was also apparent when the average import prices were currently lower than that in 2016 while the current retail prices were higher than that in 2016.

38. Ms Anna WU of the Commission pointed out that the feature of high and similar pump prices across the oil companies on its own could not be taken as hard evidence of anti-competitive conduct or collusion. According to the oil companies, the high operating costs such as labour, land and transportation had contributed to the high retail prices of auto-fuel. The Commission would not hesitate to conduct investigation if it was provided with requisite information and evidence either by the Government or oil companies. The Commission had also revised its Leniency Policies recently to encourage reporting from parties with insider information.

39. Secretary for the Environment ("SEN") explained that oil companies generally offered various kinds of discounts and concessions to their customers. It was understood that the walk-in discount and the membership card discount offered by some oil companies had increased from \$0.9 per litre in 2018 to a maximum of \$3.0 per litre at present, and the number of days on which the special discount was offered had also increased from one day a week to two to four days a week. Since customers could obtain various discounts and offers in different ways, the actual price after discount was lower than the retail price, and was also not a uniform price, suggesting that price competition existed in the market.

40. Mr HO Kai-ming was disappointed that although both Hong Kong and Singapore had reduced the retail prices of auto-fuels by some \$1.5 per litre, the Hong Kong's prices in fact stood at some \$16 per litre which was about \$4 higher than that of Singapore. Since the retail prices of auto-fuels in Hong Kong had included the Government's duty and land premium cost, he called on the Administration to consider subsidizing drivers particularly those engaged in the transport sector by the Anti-epidemic Fund or waiving the Government's duty to help them out during the hard time of the local economy.

41. SEN remarked that the diesel fuels generally used by business vehicles of the transport sector were already exempted from the Government's duty, while unleaded petrol consumed by private vehicles was subject to a duty of \$6.06. In considering the rate of the duty, the Administration had taken into account various factors including tax revenue, environmental protection, transportation and the level of public acceptance. On the other hand, a series of support measures had been provided to various sectors hard hit in the midst of the COVID-19 epidemic, including the fuel subsidy provided to public light buses and taxis sectors.

42. Mr Frankie YICK considered it unjustified to allow the diesel retail prices to be set as high as some \$14 per litre, despite their lower import cost than that of petrol and exemption from the Government's duty, resulting in a high yield for oil companies. He also criticized that only commercial diesel customers with substantial purchase volume would be offered large discounts while general users still suffered from high prices. Meanwhile, he considered it inappropriate to compare the reduction magnitude of Hong Kong and Singapore's diesel prices due to the tax free status of local diesel.

43. Mr Kenneth LEUNG was concerned whether the Commission had found any cartel activities in the auto-fuel market, although it might be a normal feature of a homogenous product market that the retail prices were always similar across retailers. He also enquired if the Administration intended to use a high fuel price strategy along with the high rates of first registration tax to deter the use of private vehicles; if so, whether the Administration had any plan to restrict the use of private vehicles so as to improve the environment.

44. SEN responded that the Government had engaged the Council for Sustainable Development to conduct a public engagement on long-term decarbonisation strategy to gauge the views of the community, in particular whether to allocate resources to gradually phase out fossil fuel vehicles. The views and responses received during the public engagement were being

analyzed by an independent analyst and would be taken into account by the Council in preparing a report with recommendations to the Government in due course. In fact, the Government always adopted the public transport-oriented policy on road transports.

45. Ms Anna WU of the Commission stressed that the Commission did not come to the conclusion in its Report on Study into Hong Kong's Auto-Fuel Market ("the report") that there was no cartel in the auto-fuel market. Indeed, the Commission did not have the requisite information during the study that would allow it to draw such a conclusion. She also said that the competition situation of the auto-fuel market was more complicated than that of a normal homogeneous market due to the Government's policy and infrastructural restrictions.

46. Mr CHAN Chun-ying suggested requiring the oil companies to disclose cost information so as to enhance the transparency of the auto-fuel price structure. He did not agree with the Administration's view that discounts offered by oil companies should be counted in analyzing the levels of auto-fuel prices as such discounts were conditional offers only for certain customers. Mr CHAN also enquired whether the Commission had given any competition-related policy advice to the Government in the past year concerning the auto-fuel market for its consideration and/or action in future.

47. Mr Holden CHOW said that despite the Commission's efforts in conducting a study on the auto-fuel market to address the public concerns, the report was unable to solve the problem at root due to the lack of information from oil companies. He urged ENB to share its relevant information with the Commission to facilitate further investigation.

48. Ms Anna WU of the Commission said that in conducting the study, the Commission had difficulty in obtaining the requisite information from the oil companies, such as the discount rates offered to customers and the operating costs which they considered as sensitive information. Presuming that ENB might have more information on the cost data of the oil companies than what the Commission could access, she welcomed ENB to share such information with the Commission to facilitate a further study by the Commission.

49. The Deputy Chairman said that there were only a few players in the auto-fuel market featuring a kind of oligopolistic competition instead of a free market environment. In addition, the retail prices of auto-fuels were highly the same across retailers while discounts offered by the oil companies were not

transparent to the public, resulting in a lack of competition. He called on the Administration to intervene in the auto-fuel market and share the relevant information with the Commission.

50. SEN responded that the Government had brought about changes to the auto-fuel market in the past by introducing the "super-bid" tendering arrangement which could facilitate potential new entrants in acquiring a critical mass of petrol filling station ("PFS") sites, hence achieving an economy of scale conducive to effective competition. To improve the transparency of auto-fuel prices and facilitate consumers to make choices, the Government had commissioned the Consumer Council to launch the "Auto-fuel Price Calculator" as well as relevant smartphone applications to promote price competition among oil companies.

51. Ms Anna WU of the Commission considered the situation of auto-fuel supply in Hong Kong a market failure. The responsible bureau, ENB, should consider intervening in the market by adjusting its policy and disclosing relevant information regarding the price setting mechanism of the oil companies so as to enhance market transparency. If it was the intention of the Government to maintain high auto-fuel prices and limit the number of PFS sites to restrict the growth of private cars, it should explain its policy clearly and address the public's concern by suggesting ways to promote a competitive auto-fuel market.

52. Mr WONG Ting-kwong appreciated the efforts paid by the Commission towards the competition in auto-fuel market although the problem was still unresolved. He opined that ENB should address the public concerns about the high prices of auto-fuels by rectifying the irregularities, instead of speaking for the oil companies. Expressing a similar view, the Chairman commented that while the Commission was trying to address the interests of the public on the competition condition of auto-fuel market, ENB seemed to be speaking for the oil companies.

53. SEN stressed that the Administration appreciated the impact of auto-fuel prices on the public, and hence had been monitoring the changes in local retail prices of auto-fuels and comparing them with the trend movements of international oil prices benchmarked at MOPS. It had strived to provide latest oil pricing information and responded to Members' concerns based on objective analysis. It also kept close contact with the oil companies, urging them to reduce prices promptly when international oil prices drop, in order to lessen the burden on the public. In fact, the prices in Hong Kong had already come down more than in Singapore since the plunge in international prices. According to

the observation, the trend movements of local retail prices of auto-fuels and those of MOPS were generally in line over the past year, although the timing and magnitude of the changes might not be exactly the same.

54. To resolve the problem of high auto-fuel prices, Mr Frankie YICK reiterated his suggestion to introduce into the auto-fuel 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 a 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 under the tendering policy.

55. Mr Tommy CHEUNG said that it might be the ENB's policy intent to curb the use of private vehicles by a high price auto-fuel policy to protect the environment. However, it was also the responsibility of ENB to resolve the problem of monopolistic or oligopolistic situation in the auto-fuel market. Given that the movements of auto-fuel prices were not in line with the international oil prices, he urged the Administration to adjust the price setting mechanism so that auto-fuels could be provided at reasonable prices in Hong Kong.

56. Mr SHIU Ka-fai expressed concern that Hong Kong people, especially the transport sector, had been suffering from the problem of high auto-fuel prices for years. The auto-fuel prices in Hong Kong set by oil companies had been "quick to rise and slow to drop" and were the highest in the world. The public had a high hope for the Commission to tackle the problem upon its establishment, but it seemed that the Commission did not have enough power to resolve the problem. He enquired whether the problem was mainly due to the Government's high land premium policy, and whether ENB would devise counter-measures to address the problem.

(At 12:29 pm, the Chairman directed that the meeting be extended for 15 minutes.)

Admin 57. Mrs Regina IP enquired whether it was the Government's policy objective to reduce the number of private vehicles by a high auto-fuel price policy. She requested ENB to provide detailed analysis of its energy policy under which ENB should provide reliable supplies of energy at reasonable prices on one hand, but on the other hand should minimize the environmental impact in the use of energy. To facilitate members' consideration on this matter, she also requested ENB to provide in its analysis the specific measures (e.g. tax measures) and policy adjustments to achieve a balance in maintaining

the retail prices of auto-fuels at a reasonable level and curbing the growth of private vehicles.

58. SEN said that the land premium was a complicated matter subject to various considerations straddling across different Government bureaux. In considering the policy on auto-fuel, the Government should take into account the unique situation of Hong Kong and address various matters, such as traffic congestion, air pollution, safe and stable energy supply and its affordability to the trades, in a holistic manner. He assured members that ENB would adopt an open mind, and would coordinate with relevant bureaux to review the way forward on this matter.

Reintroducing 95 RON petrol

59. Mr LUK Chung Hung enquired about the reasons for ENB not taking forward the Commission's recommendations in the report, such as reintroducing 95 RON petrol which could address the problem of lacking petrol variety in Hong Kong. Pointing out that the Commission seemed to be a "toothless tiger" in its attempt to investigate conduct that might contravene competition rules in the auto-fuel market, he asked about the Commission's suggestions to strengthen its power in this regard.

60. Mr Andrew WAN was disappointed that ENB did not respond positively to all the six recommendations put forward by the Commission in the report to strengthen competition of the auto-fuel market. He was of the view that strengthening the Commission's power on information gathering was of utmost importance to effectively deter any anti-competitive behaviour in Hong Kong.

61. Ms Anna WU of the Commission said that among other things in the report, the Commission had suggested that the Government should consider reintroducing 95 RON petrol into the market, so that consumers would have more choices. The report also suggested that the Commission be vested with information gathering powers when undertaking market studies in future.

62. USEN explained that after careful consideration, the Government had decided not to require that companies supply 95 RON petrol, in addition to 98 RON petrol, at PFSs. Given that oil companies might have to incur additional costs to construct additional petrol storage tanks or to modify the existing petrol/diesel storage tanks at the terminal, as well as the need to install additional underground storage tanks and to modify the ancillary facilities at

PFSs, the estimated price difference of merely 1% between 95 and 98 RON petrol might easily be offset or outweighed by the additional operating and capital costs. Hence, requiring the supply of 95 RON petrol might not necessarily bring about cheaper petrol choices to consumers.

63. Mr Holden CHOW did not subscribe to the explanation. He said that despite the fact that there might be only a small price difference between 95 and 98 RON petrol, reintroducing 95 RON petrol could provide another choice for customers and enhance competition. Emphasizing the need for ENB to address the public concerns about high auto-fuel prices, he called on ENB to formulate effective measures to tackle this long-standing problem and play a proactive role in monitoring the oil companies.

Motion which was not dealt with at the meeting

64. Mr Holden CHOW moved the following motion which was seconded by Ms Elizabeth QUAT –

"今年以來國際油價大幅急挫逾八成，但本港車用燃油產品減價速度明顯緩慢，累計減幅亦不足百分之十，因此，本委員會促請政府聯同競爭事務委員會，加強監管油公司的燃油價格，正視本港油產品價格"加快減慢"的問題，以免在目前經濟水深火熱情況下，拖累整體民生。"

(Translation)

"Given that the reduction in prices of auto-fuel products in Hong Kong has obviously been slow, with an accumulated reduction of less than 10% despite an over 80% tumble in the international oil prices since this year, this Panel urges the Government and the Competition Commission to jointly step up monitoring of oil prices of the oil companies, and face up to the problem of "quick going up and slow going down" in prices of local oil products, so as not to adversely affect people's livelihood in the heat of the current economic downturn."

Admin 65. In view of time constraint, the Chairman suggested and Mr Holden CHOW agreed that the motion would not be dealt with at the meeting. A written response to the motion would be sought from the Administration after the meeting.

V. Any other business

66. There being no other business, the meeting ended at 1:04 pm.

Council Business Division 4
Legislative Council Secretariat
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