

**First Meeting of
the Business Facilitation Advisory Committee**

Agenda Item 2 : Report on Business Facilitation Work

Purpose

This paper provides a brief background on the Government's business facilitation efforts so far and reports on the progress of the current initiatives.

Background

2. The Government is committed to maintaining Hong Kong's favourable business environment. The Helping Business Programme was launched in 1996 under the steer of the then Business Advisory Group (BAG) chaired by FS. It was supported by the then Business and Services Promotion Unit (BSPU). Since 1996, the Government has completed over 120 helping business studies and reviews on government regulations and procedures and implemented over 470 measures with the aims of eliminating outdated, excessive, repetitive or unnecessary regulations and assessing and reducing the cost of compliance to businesses. Most of the earlier studies were conducted on a departmental basis.

3. The work of the BAG was taken up by the then Economic and Employment Council (EEC) in January 2004 while the BSPU was later reorganized to form the Economic Analysis and Business Facilitation Unit (EABFU) under the Financial Secretary's Office. The EABFU continues to provide support to the EEC and its Subgroup on Business Facilitation and Task Forces, which were formed to undertake the regulatory reviews. On the advice of the EEC, a sector-specific approach was adopted in undertaking reviews and studies on the regulations impacting on various business sectors.

4. Last year, under the steer of the then EEC, it was decided that priorities be given to conducting regulatory reviews on the construction, real estate, retail and entertainment trades, and relevant Task Forces, i.e., Pre-construction, Construction, Retail and Town Planning Task Forces have been established for the purpose. Many improvement measures are being introduced, such as simplifying Special Conditions of the land lease,

introducing “composite licence” for food retail and “provisional licence” for cinemas etc. Subsequent to the disbandment of the EEC, the Task Forces will now report progress to the BFAC.

5. In addition, the Government has also conducted Regulatory Impact Assessment (RIA) studies on regulatory proposals to assess their impact on business and other stakeholders, including any compliant costs and burden on the concerned trades and employees, and to recommend feasible options.

Progress of current work

Work of the Task Forces

Pre-construction Task Force

6. The Pre-construction Task Force (PCTF) was set up in Oct 2004 to review the regulatory framework relating to pre-construction property development activities. Over the past 14 months, the PCTF had focused its attention on simplification of lease conditions and improving the lease modification mechanism to make the process more efficient. The Lands Department had already streamlined 20 out of 46 special conditions of the residential land lease. A revised set of special lease conditions would be effective in February 2006. The PCTF will continue to identify improvement potentials and liaise with the Lands Department on the lease modification process.

Construction Task Force

7. The Task Force to Review the Construction Stage of the Development Process [Construction Task Force (CTF)] was formed under the Provisional Construction Industry Co-ordination Board in December 2004 to make recommendations to the then EEC Sub-group on Business Facilitation on measures to speed up the construction cycle and lower the cost of complying with prevailing statutory requirements.

8. The CTF has identified private certification of building submissions as a measure to speed up the building approval process through entrusting part of the checking currently undertaken by the Buildings Department to private building professionals. A consultancy study is in progress to examine the fundamental issues of the proposal, including

considering the justification for private certification, assessing its benefits, risks and drawbacks, ascertaining the implementation issues and devising solutions. The study started in early 2006 for completion in mid 2006.

9. The CTF is formulating proposals for improving the co-ordination of the concerned departments in the development approval process through centralized processing of development proposals and greater delegation of vetting authorities. It will also embark on an overall review of the regulatory regime for the construction stage with a view to identifying long-term initiatives for improving the statutory framework. Discussion on these two topics is scheduled for completion by mid-2006.

10. The CTF has advised on the alignment of the definitions of key development parameters and will monitor the progress in promulgating the aligned definitions. It has also discussed the development of a web-based system for building professionals to keep track of the status of processing building submissions. However, since regulatory authorities are still not yet communicating electronically in the building plan checking, the proposal will not yield any meaningful benefits at present and will not be further pursued.

Town Planning Task Force

11. The Town Planning Task Force (TPTF) was set up in November 2005 to review the town planning issues including examining problems encountered by the real estate sector and to make recommendations on ways to improve operational efficiency. The focus of the review is on shortening the long lead-time through tackling the administrative and statutory issues of the main planning processes, including planning applications, applications for amendments to outline zoning plans, plan making and planning objections. The stakeholder departments will be invited to the TPTF meeting to exchange views and explore the improvement opportunities.

Retail Task Force

Regulatory review of the beauty products/cosmetics/medicines regulations

12. The Retail Task Force (RTF) commenced the review of regulations relating to beauty products/cosmetics/medicines in August 2005. The major concern of the cosmetics sector is the regulatory proposal on volatile organic compounds. The RTF has facilitated discussions between the trade and the Environment, Transport and Works Bureau regarding the proposal and the bureau has reduced the number of consumer product

categories proposed to be regulated from 40 to 6. The development has been well received by the trade.

13. Although beauty products/health food not containing prohibited or medicinal/drug ingredients are not subject to regulatory control, the trade relies on confirmation from the Department of Health (DH) on whether registration is required for a product. Some 3 000 enquiries each year are received by the DH, which takes, on average, 3 to 6 months for confirmation. On medicines/drugs, the trade is particularly concerned with the processing time of product registration/re-registration and the restrictions on the operation of pharmacies. The RTF has met with the DH in January 2006 to discuss potential improvement opportunities. A forum is being arranged for the DH and the trade to meet in February 2006 to discuss these in detail.

Allergen labelling

14. The Food and Drugs (Composition and Labelling) Regulation was amended in July 2004 to impose amongst other regulations, labelling requirements for allergenic substances in food. In December 2005, the Food and Environmental Hygiene Department (FEHD) has finalized a set of labelling guidelines that would provide a defence clause to the trade against inadvertent cross-contamination in the food production cycle. The RTF, in consultation with the trade, considered that the proposed guidelines are non-compliable and suggested some amendments to the guidelines. The Department and Bureau have yet to agree to the suggestions from the trade. The RTF aims at organizing a further meeting between the trade and the Administration in or before March 2006 to discuss the former's concerns.

Nutrition labelling

15. The Administration intends to introduce legislative amendments this year to impose labelling requirements for food nutrients. In the technical meetings held with the FEHD, the trade has expressed its concerns over the impact on small volume products, inadequate space for labelling small packages, format for nutrition information, availability of guidelines and implementation timing. The trade is still awaiting the Department's response regarding some key concerns and the RTF is monitoring the situation.

Mandatory Energy Efficiency Labelling Scheme

16. The RTF met with the trade in mid January 2006 to gauge their views on the proposed scheme, which will cover 3 types of electrical

products and is targeted for legislation in 2006. The trade questioned the need for a mandatory scheme against a successful voluntary scheme and expressed concern over the charging of registration fee and the creation of barriers to market entry for small traders. The RTF will convey the trade's views to the Environmental Protection Department and the Electrical and Mechanical Services Department for consideration and response.

Other business facilitation work

Review of regulations relating to plumbing installations in new buildings

17. The Waterworks Ordinance provides that approval of the Water Supplies Department is required for plumbing design and completed works before connection to main water supply. Such approval is on the critical path for getting an occupation permit for a new building. The EABFU has commissioned a consultancy study in early February 2006 to explore options, such as private certification, to speed up the approval process.

Review of cinema licensing

18. Cinemas are regulated by the Home Affairs Bureau under the Places of Public Entertainment Ordinance (PPE Ord.). The time taken to obtain a cinema licence and the prescriptive licensing requirements had affected business start-up and inflated costs. In late 2004, the EABFU reviewed the regulatory regime of the cinema industry with a view to developing a transparent, business-friendly and efficient licensing system. Key recommendations made, e.g. provisional licence, regular discussion forums with the trade, updating of licensing requirements, etc. were well received by the cinema trade and are being implemented. It is estimated that a cinema may legally commence business in half the time normally taken to obtain a licence previously. The legislative amendments for "provisional licence" is in progress.

Review of theme parks and family amusement centre regulations

19. Theme parks and family amusement centres are regulated under the PPE Ordinance, Amusement Rides (Safety) Ordinance, Aerial Ropeways (Safety) Ordinance, Gambling Ordinance, Amusement Game Centres Ordinance, and many other ordinances, depending on the entertainment facilities provided. In April 2005, the Efficiency Unit (EU) was commissioned to conduct a review on the regulatory systems.

20. The EU's current review was focused on the licensing requirements of the PPE Licence and recommended ways to streamline the application process. Regulatory authorities, i.e. Home Affairs Bureau, Food and Environmental Hygiene Department, Fire Services Department, Electrical and Mechanical Services Department, Television and Entertainment Licensing Agency (TELA), Buildings Department and Housing Authority and the trade were consulted on the initial recommendations. The trade suggested consideration be also given to adopting "provisional licence", "composite licence" and self-certification of amusement rides. A further consultancy study on the overall regulatory system will follow.

Other issues being followed up by the EABFU

21. The EABFU is following up on a number of issues raised by various trades with the relevant bureaux and departments. Details are set out below.

Food premises licences

(a) Factory canteen

The factory canteen operators considered some of the existing licensing requirements such as no direct access to the street except for means of escape, no advertisement signboard allowed etc. were unreasonable and needed to be reviewed.

(b) Liquor licence

The trade raised a number of issues, among them are the new measure requiring the display of the number of persons allowed in the food premises, the licence holder cannot be a business concern and the administrative procedure involved in licence application and renewal.

(c) Alfresco dining

The trade suggested consideration be given to allow more flexibility in the outside seating accommodation guidelines, including the restriction on business hours and sunshade. The

trade was also concerned with the long lead-time taken for endorsement of alfresco dining.

22. We plan to take up the matters with the departments concerned with a view to addressing the trade's concerns and to exploring improvement opportunities.

Amusement Game Centre

23. Amusement game centres are regulated by TELA under Amusement Game Centres Ordinance. A venue installed with "amusement games (AG)" and "amusement with prize (AWP)" machine requires three separate licences, i.e. PPE Licence, AWP Licence and AGC Licence apart from business registration licence. Areas installed with AG have to be fully enclosed and separated from AWP machines. An operator urged the Government to review the licensing requirements which are outdated and create hurdles for entry into the business. The EABFU will meet with the trade representatives to gather industry views before taking the matter forward.

Valuation of duty on liquors

24. The Dutiable Commodities Ordinance empowers the Customs and Excise Department (C&ED) to assess the duties on import of liquors. The assessment value is determined at the point when the liquor is delivered from the seller's/manufacturer's premises to the buyer. However, the C&ED may not accept the price quoted by the importer, even with documentary proof, and may impose the duty value according to its own assessment of the prevailing market price. The trade urged for a more transparent and business-friendly approach to address the following issues –

- (a) The C&ED will not assess the duty before actual shipment. When documentary proof cannot be made available in short notice or such is not accepted by the C&ED, the importers have to accept the duty value imposed by the department in order to release the goods for sale;
- (b) The refund process takes time and incurs administrative cost to the business; and

- (c) The importers have difficulties in agreeing to a market price with the C&ED for duty assessment of wines purchased for more than a year before shipping to Hong Kong.

25. The EABFU has followed this up and is awaiting further details from C&ED before deciding whether a full study is required.

Way Forward

26. Subject to the views of the BFAC, the EABFU will follow up the above issues with the bureaux/departments concerned.

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