

# 立法會 *Legislative Council*

立法會LS73/01-02號文件

## 經濟事務委員會會議文件

### “與機場有關活動”一詞在 《機場管理局條例》(第483章)的涵義

#### 背景

經濟事務委員會的委員在2002年3月20日的會議上研究政府當局提出有關“擬議《機場管理局(准許進行與機場有關活動)令》”的討論文件(CB(1)1310/01-02(03)號文件)時，要求本部就《機場管理局條例》(第483章)(“該條例”)內“與機場有關活動”一詞的涵義提出意見。

#### 機場管理局在“與機場有關活動”方面的各項權力

2. 機場管理局(“機管局”)根據法例成立。機管局須在該條例所規定的權力範圍內行事。根據該條例第7(1)條，機管局具有一般權力，為履行其職能而作出必須作出或適宜作出的任何事情，或有助於履行其職能的任何事情，或作出在履行職能方面所附帶引起的任何事情。該條例第5條訂明機管局的職能。簡要而言，機管局須——

- (a) 營運及發展一個位於赤鱗角及其附近的機場，並提供必需或適宜的設施、適意設備或服務；
- (b) 在批租地區或從該地區的地點營辦任何與機場有關的商貿或工業活動；及
- (c) 根據行政長官藉刊登於憲報的命令所指明的任何地方及條件，營辦該等與機場有關活動。

3. 機管局不准進行的活動為設立或營辦氣象服務或空中交通管制服務，或與香港以外的任何國家或地區政府或任何其他人士訂立任何民用航空運輸協定(該條例第8條)。

#### “與機場有關活動”的一般涵義

4. “活動”一詞一般指某人選擇進行的一些事情。“機場”則指用作提供航機著陸及起飛設施的地方。因此，該條例所用的“與機場有關活動”的字句應包括機管局選擇進行、並與赤鱗角機場有關的任何活動。

## 立法背景及意圖

5. 政府當局在提交《機場管理局條例草案》前，曾以白紙條例草案的形式公布《機場公司條例草案》，進行公眾諮詢。白紙條例草案第4(3)條(與該條例現行的第5(3)條相若)訂明：“...該公司可從事或營辦總督可能...准許...的該等活動...”。(當時的立法局曾成立一個小組委員會研究該白紙條例草案。有關該小組委員會於1994年2月25日提交內務委員會的報告，請參閱立法局第1789/93-94號文件(見夾附的立法會LS73/01-02(01)號文件)。)

6. 《機場管理局條例草案》於1995年5月24日提交當時的立法局。經濟司在動議該條例草案的二讀辯論時表示，當局接獲的意見認為白紙草案賦予管理局的權力過於廣泛。因此，當局在條例草案第5(3)條的“活動”一詞前加入“與機場有關”的字句。他表示：“所謂“與機場有關”，我們的意思就是，管理局所從事的應只為機場的有效率經營所必需或有幫助的活動，或與發展及經營機場有關的活動，如發展旅館、貨運設施、辦公室或其他商業及零售業的場地。我們不預期管理局會從事其他地方機場通常不涉及的活動。”(見夾附的立法會LS73/01-02(02)號文件)。

7. 前立法局曾成立法案委員會審議該條例草案。該法案委員會於1995年7月7日向內務委員會提交報告(即1995年7月4日的立法會1111/94-95號文件，見夾附的立法會LS73/01-02(03)號文件)。在法案委員會就該條例草案的條文進行逐項審議期間，委員曾促請政府當局界定“與機場有關活動”一詞的定義。政府當局拒絕了此項要求，並且表示，由於機場業務的變數甚多，當局將難以作出法律上的精確定義。此外，當局亦不想無意中剝奪管理局根據各種不斷變化的情況作出回應的能力。

## 結論

8. 要釐定任何活動是否屬“與機場有關活動”的涵義，或須從以下情況考慮該項活動——

- (a) 該項活動是否不屬該條例第8條訂明的限制活動；
- (b) 該項活動是否為機場的經營所必需或對經營機場有幫助，或與發展及經營機場有關；
- (c) 該項活動是否“其他地方機場通常不涉及”的活動；及
- (d) 該項活動是否行政長官藉命令准許或指派的活動，行政長官有否訂明任何地方或條件限制該項活動。

## 連附件

立法會秘書處

法律事務部

2002年4月15日

檔號：MS/24

一九九四年二月二十五日  
立法局內務委員會會議

研究機場公司白紙條例草案小組委員會  
提交的報告

目的

本文件旨在匯報研究機場公司白紙條例草案小組委員會的討論內容。

背景

2. 機場公司條例草案業已根據關於香港新機場建設及有關問題的諒解備忘錄，「盡量以地鐵公司條例為模式」，但由於考慮到國際機場和本土鐵路服務在營辦方面的不同需要，因而其中部分內容與地鐵公條例互有出入。

3. 機場公司的主要職能，是要按照審慎的商業原則，在赤鱘角發展和營辦一個機場。此外，在不抵觸批地文件所載的限制下，機場公司亦可在赤鱘角發展一些與機場無關的商業／工業活動（根據現時的預算，將會在總面積達1 248公頃的批地中配撥大約100公頃的土地供作此方面的用途）。

4. 此條例草案訂定在執行上述職能方面所必需的各项權力，但卻不包括執行下列職能的權力：—

- (a) 營辦空中交通服務或氣象服務（此等服務將會由政府提供）；
- (b) 訂立任何航空服務協議（此方面的事務將會仍舊屬於政府的其中一項職能）：及
- (c) 在赤鱘角以外進行任何活動（除非屬已獲總督特別授權進行的活動，則作別論）。

5. 此條例草案已於其內文中訂定包括範圍甚廣的一系列具體權力，使政府可以就關乎機場公司的表現、資料的提供、財務安排、各項機場實用的徵收、督察的委任及附例的制定方面發出指示或決定是否予以批准。訂定此等權力是為在兩方面取得適當的平衡，使既可發揮公共公司經營手法的優點，而同時卻能保留維護及促進公眾利益所必需的一切權力。

## 小組委員會

6. 在一九九四年一月七日內務委員會會議席上，議員同意成立一個小組委員會，以負責研究此項白紙條例草案。該小組委員會遂於同年一月十四日舉行首次會議，並在席上推選黃匡源議員擔任主席一職。其成員名單見載於附錄A。

## 小組委員會的審議工作

7. 小組委員會業已先後舉行五次會議，其中四次均有政府當局代表參加。小組委員會所曾討論的關注問題，主要有下列幾方面：—

- (a) 該公司的名稱，特別是其中文譯名的含義有欠明確，並不能反映其真正身份；
- (b) 委任一人為「行政主席」的安排，是否理想；
- (c) 應將制衡草案第6條所賦予該公司的一般權力的辦法納入條例草案內；
- (d) 有需要界定該公司成員須向公司披露的「直接」及「間接」利益，或提供有關此方面的指引；
- (e) 市民應可查閱為記錄該公司成員所申報的利益而製備的登記手冊；
- (f) 應對故意漏報利益的成員施以懲罰或處分；
- (g) 應訂定「公眾利益」一辭的釋義，以及說明在審議事項涉及公眾利益的會議席上公職人員所扮演的角色和應盡的責任；
- (h) 關於政府為補償該公司因為遵從總督會同行政根據第18(2)條發出一項指示所要付出的額外開支，而需向該公司作出賠償的問題；
- (i) 關於「國際義務」一辭的釋義和詮釋；以及為了監察和管控「國際義務」以外的各項機場客運大廈收費水平而必須設立的監管機制；
- (j) 有關防止機場公司核心資產的管控權及擁有權轉移由外間機構掌握的保障措施；
- (k) 核數署署長可以扮演的角色，以及其與該公司內部及外聘的核數師的工作關係；

- (l) 立法局的監察角色，以及機場公司所須承擔的問責；
- (m) 有關該公司制定及執行附例的權力；
- (n) 有關該公司人員所可行使的扣留權力的制衡問題；及
- (o) 關於為何要向該公司成員提供豁免，使其在履行條例所訂職能時可以無須承擔法律責任的問題。

8. 小組委員會成員對上述其中三方面所持的意見完全一致，此即有需更改機場公司的名稱，特別是該公司的中文譯名；應委任不同人員分別出任該公司的主席及行政總監；以及應授權核數署長對該公司進行衡公量值的核數。有關上述各項問題的詳細討論內容已記錄於各次會議的會議摘錄之內。此外，自由黨及黃匡源議員亦曾就此白紙條例草案，分別提交詳細的意見書。凡有興趣省覽該等文件的議員，均可向委員會事務部總主任（八）索閱。

## **建議**

9. 除上文第8段所提及的三方面以外，小組委員會並無試圖試讓議員在各次會議中所提出的質詢和建議達成共識的見，因此，現建議將各次會議的會議摘錄及議員所提交的全部意見一併送交政府當局，以供當局在草擬藍紙草條例草案時加以考慮。

## **徵詢意見**

10. 謹請各位議員支持上文第9段所載的小組委員會建議。

立法局議員辦事處

一九九四年二月二十二日

研究機場公司白紙條例草案小組委員會

成 員 名 單

黃匡源議員（主席）  
李華明議員（副主席）  
周梁淑怡議員  
譚耀宗議員  
何承天議員  
劉建儀議員  
劉華森議員  
梁智鴻議員  
陳偉業議員  
鄭海泉議員  
張建東議員  
張文光議員  
詹培忠議員  
黃震遐議員  
劉慧卿議員  
李永達議員  
李家祥議員  
潘國濂議員  
黃秉槐議員  
黃宜弘議員  
楊孝華議員  
陸觀豪議員  
胡紅玉議員

Clause 6 of the Bill provides that the amendments will apply to all existing franchises.

Mr President, let me assure Honourable Members that the Government has no intention of taking over public bus services except in very exceptional circumstances and, even so, for no longer than it takes for private enterprise to resume operations. The Bill before this Council simply seeks to safeguard the interests of the travelling public. With these remarks, I recommend the Bill to Honourable Members.

*Bill referred to the House Committee pursuant to Standing Order 42(3A).*

#### AIRPORT AUTHORITY BILL

THE SECRETARY FOR ECONOMIC SERVICES moved the Second Reading of: "A Bill to reconstitute the Provisional Airport Authority and to provide that from the commencement hereof it shall be known in the English language as the Airport Authority and in the Chinese language as "機場管理局", to enable it to provide, operate, develop and maintain an airport for civil aviation in the vicinity of Chek Lap Kok and otherwise to define its functions, to make provision for the safe, secure and efficient operation of such airport and for connected purposes."

He said: Mr President, I move that the Airport Authority Bill be read a Second time.

The purpose of the Bill is to reconstitute the Provisional Airport Authority (PAA) as the Airport Authority (AA) to enable it to provide, operate, develop and maintain our new airport at Chek Lap Kok. The Bill defines the functions of the Authority and makes provision for the safe, secure and efficient operation of the airport.

In January 1994, we published the Airport Corporation Bill in the form of a White Bill for public consultation. Members of this Council formed a Subcommittee to study the White Bill. We are most grateful for the comments and suggestions put forward by members of the Subcommittee. In addition, we would like to thank the Honourable Peter WONG who sent us a separate written submission and the Honourable Albert CHAN, the Honourable Frederick FUNG, the Honourable Fred LI, the Honourable Steven POON and the Honourable TAM Yiu-chung who put forward comments on behalf of the organizations they represent. We would also like to thank members of the Airport Consultative Committee, as well as other organizations and members of the public for taking time to study and comment on the White Bill.

In the course of the public consultation exercise, we received 19 written submissions. We held 14 meetings with the Subcommittee of this Council, the Ad Hoc Study Group of the Airport Consultative Committee and a number of organizations. The comments and suggestions put to us focused mainly on the name, structure, powers and functions of the Authority, employment of staff, the extent of governmental control, monitoring and auditing, payment of compensation and charges. We have studied each and every comment received. In line with the "Memorandum of Understanding Concerning the Construction of the Airport in Hong Kong and Related Questions" (MOU), we have also consulted the Chinese side of the Airport Committee of the Joint Liaison Group.

The objectives and structure of the Airport Authority Bill are the same as those in the 1994 White Bill. In drafting the Bill, we have aimed to address as many of the comments and suggestions received as possible. We have also taken into account fully the agreements reached with the Chinese side.

#### *Name*

Under the Bill, the PAA will be re-named the "Airport Authority" (AA) in English and "機場管理局" in Chinese.

#### *Structure*

During the public consultation process, we have received suggestions that in order to provide a wide range of checks and balances on the Authority and on its management, the Authority should have a Board. It has also been suggested that the Authority's Chairman and Chief Executive Officer should be separate persons. Accordingly, clause 4 of the Bill now provides that the affairs of the Authority shall be under the care and management of a Board. Clause 3(3)(a) of the Bill also makes it clear that the Chairman and the Chief Executive Officer will be different persons with different roles and responsibilities.

#### *Localization*

Some commentators suggested that given the importance of the Authority, it should adopt a localization policy for employment of staff and that the Chairman and, if possible, the Chief Executive Officer should be "locals". Others specifically suggested that the Chairman should be a Hong Kong permanent resident. Clause 3(3)(a) of the Bill now provides that the Chairman shall be a Hong Kong permanent resident as defined in the Immigration Ordinance. As regards employment of staff, the Authority's plan is to fill all senior posts, including that for the Chief Executive Officer, with Hong Kong permanent residents and the Authority will recruit from sources outside Hong Kong only in the absence of suitable local candidates.

*Powers and functions*

On the powers and functions of the Authority, comments we have received focused mainly on the scope of activities and powers of the Authority relating to charging of land and property, borrowing and delegation of functions. Some felt that the powers of the Authority in the White Bill were too wide. Others were concerned that in the unlikely event that the Authority fails to repay its debt or exercises its power to charge or to delegate in a wrong manner, it may inadvertently lose control of the airport.

As regards the activities of the Authority, in addition to providing, developing, operating and maintaining the airport, clauses 5(2) and (3) and 7(2)(f) of the Bill now provide that the Authority may only engage in "airport-related" activities. By "airport-related", we mean that the Authority should only undertake activities which are essential or conducive to the efficient operation of the airport or which are related to the development and running of an airport, for example, the development of hotels, freight forwarding facilities, offices, or other commercial and retail premises. We do not envisage that the Authority will undertake activities which are not normally undertaken by airports in other territories.

Turning now to the charging and disposal of land and buildings by the Authority, the Land Grant referred to in clause 16 of the Bill will specifically prohibit the Authority from disposing of land and buildings required for the operation of the airport or charging them in such a way which would jeopardize the operation of the airport. Clause 16(1) of the Bill further provides that the restriction over charging and disposal of land and buildings in the Land Grant cannot be changed except with the prior approval of the Financial Secretary.

As regards the Authority's power to borrow, clause 28(4) of the Bill provides that the Governor may direct the Authority not to borrow above a particular level without the prior written consent of the Financial Secretary.

As regards delegation and sub-delegation of the Authority's functions, the White Bill already provided that some powers of the Authority could not be delegated. These include the power to delegate, the power to form or acquire a subsidiary, the power to acquire or dispose of shares in a subsidiary and the power to make bylaws. The White Bill also provided that the Financial Secretary would be given powers to revoke any delegation made and irrevocable delegations have to be approved by him in advance. In the Bill we have put before Members today, we have included one additional residual safeguard. Clause 9(3) of the Bill provides that the Financial Secretary may direct the Authority not to delegate functions except with his prior consent. This would ensure that in effect, the Government could at any time forbid the delegation of any function of the Authority.

*Auditing*

On auditing of the affairs of the Authority, we have received divided views. There was strong support for strengthening the auditing functions of the Authority. Some have said that since a considerable proportion of the Authority's funds comes from the public purse, the Director of Audit should be given the power in the Airport Authority Ordinance to initiate value-for-money audits on the Authority. Some felt that the Director of Audit should also audit the annual accounts of the Authority. On the other hand, others were content to leave the regular annual auditing functions in the hands of private sector professional auditors. Some also felt that, as long as the Director of Audit could carry out value-for-money audits on the Authority, clause 29(6) of the White Bill already provided adequate powers.

It is clearly most important that the activities of the Authority are subject to rigorous and effective audit procedures. With this object in mind, we have decided to strengthen the mechanism for audit within the Authority by providing in the Bill that the Authority must establish an Audit Committee. Clause 31 of the Bill provides that the functions of the Audit Committee are to consider matters relating to the financial affairs or audits of the Authority as it considers necessary or desirable and any other matters referred to it. It further provides that neither the Chief Executive Officer nor any other employees of the Authority could be a member of the Audit Committee and that its chairman shall be a member of the Authority. The Committee is expected to play a proactive role and may instigate value-for-money studies in any area where it considers the management approach may be made more cost-effective and efficient.

As regards the role of the Director of Audit, section 15 of the Audit Ordinance provides that "Notwithstanding that he is not empowered by any Ordinance to audit, examine or inquire into the accounts of a person, body corporate or other body, the Director may audit, examine or inquire into the records and accounts of any person, body corporate or other body if he is authorized in writing to do so by the Governor in the public interest .....". Clause 32(7) of the Airport Authority Bill makes it clear that this section of the Audit Ordinance applies to the Authority. So the Governor could, if necessary, authorize the Director of Audit to audit, examine or inquire into the records and accounts of the Airport Authority.

Used in combination, section 15 of the Audit Ordinance and clause 31 of the Airport Authority Bill provide strong powers, and I believe them to be sufficient. Like the Mass Transit Railway Corporation and the Kowloon-Canton Railway Corporation, the Airport Authority will be required to operate on prudent commercial principles. Like the two railway corporations, it will be expected to raise considerable sums of money in the international capital markets and it is important that it develops the same strong reputation amongst lenders and international credit rating agencies. This can only be achieved if a proper balance is struck between the need for prudent oversight of the



Authority's activities and the need for it to be allowed to operate effectively as a commercially independent entity, and be seen to be so.

#### *Compensation*

Turning now to the payment of compensation, we have received suggestions that the Authority, which is wholly owned by the Government, should be obliged to act in the public interest and should not be paid any compensation for losses incurred as a result of being directed by the Governor in Council to take certain courses of action. There is, however, another angle to this issue. Lenders to the Authority will want to be assured that the Authority will be able to generate the necessary revenues to service and repay its debt and that its ability to do so will not be adversely affected by a direction given by the Government. Balancing the two considerations, we decided that the circumstances under which compensation will be payable should be qualified. Clause 20(2) of the Bill now provides that compensation will only be payable where compliance with a direction given by the Governor in Council in the public interest results in the Authority's being unable to conduct its business according to prudent commercial principles and to pay a debt or otherwise being unable to discharge any of its legal obligations. In addition, clause 20(3) of the Bill provides that an application for compensation shall be made by, and only by, the Board of the Authority.

#### *Quorum for meetings*

A number of commentators expressed concern that the quorum requirement for meetings of the Authority in the White Bill was too low as compared to that for other statutory bodies. Clause 18(8) of the Bill now specifies that the quorum for all meetings of the Board shall be at least half of the members of the Authority including the Chairman and Chief Executive Officer. The minimum number of public officers in the quorum is now two.

#### *Airport charges*

We have received suggestions that the Government or the Legislative Council should be given wider powers to vet and approve airport charges. These stemmed from a concern that the Authority might try to levy high fees in order to maximize profits. Others have noted however that doing so might significantly undermine the Authority's ability to conduct its business according to prudent commercial principles. Clause 34 of the Bill now provides that the Authority may make a scheme or schemes for determining airport charges and before making such a scheme, it shall submit to the Governor in Council for approval a draft of the proposed scheme together with a statement specifying the date on which the charges are intended to operate and reasons for the proposed scheme. Separately, we have taken the opportunity to refine the definition of "airport charges" in the Bill. At the time the White Bill was drafted, it was thought that aircraft passenger charges would be subject to international obligations applying to Hong Kong. Accordingly these charges were included

under the definition of "airport charges" in the White Bill. It now transpires that, as a result of the conclusion of negotiations between the United Kingdom and the United States of America on air services, aircraft passenger charges would not be subject to international obligations applying to Hong Kong. The definition of "airport charges" in the Airport Authority Bill has therefore been amended accordingly.

#### *Conclusion*

Mr President, in drafting the Airport Authority Bill we have attempted to take into account all views and suggestions put to us. We have strengthened government controls over the Authority. We have defined more clearly the Authority's powers and functions, structure and procedures. We have sought to strike that delicate balance between controlling the Authority but at the same time not restricting its activities in such a way as to render it impossible to conduct its business in accordance with prudent commercial principles. Mr President, I commend this Bill to this Council and I look forward to further discussion with Members.

*Bill referred to the House Committee pursuant to Standing Order 42(3A).*

#### **IMPORT AND EXPORT (AMENDMENT) (NO. 2) BILL 1994**

**Resumption of debate on Second Reading which was moved on 7 December 1994**

*Question on the Second Reading of the Bill proposed, put and agreed to.*

Bill read the Second time.

*Bill committed to a Committee of the whole Council pursuant to Standing Order 43(1).*

#### **INDUSTRIAL TRAINING (CLOTHING INDUSTRY) (AMENDMENT) BILL 1994**

**Resumption of debate on Second Reading which was moved on 7 December 1994**

*Question on the Second Reading of the Bill proposed, put and agreed to.*

Bill read the Second time.

*Bill committed to a Committee of the whole Council pursuant to Standing Order 43(1).*

檔號：HB/C/31/94

一九九五年七月七日內務委員會會議

**機場管理局條例草案審議委員會  
提交的報告**

**目的**

本文件旨在報告機場管理局條例草案審議委員會的審議工作，並請議員支持於一九九五年七月十九日恢復二讀辯論該條例草案。

**條例草案**

2. 機場管理局條例草案（以下簡稱「該條例草案」）的目的是重組臨時機場管理局（以下簡稱「臨機局」）。

3. 該條例草案訂明機場管理局（以下簡稱「臨機局」）在提供、營運、發展及維持位於赤鱗角的香港新國際機場方面的權力及職能，以及就機場的安全、保安及有效率運作等方面訂定條文。

4. 該條例草案的目的及結構與在一九九四年一月出版的機場公司條例草案（即白紙草條例草案）相同。然而現行條例草案已考慮市民對白紙草條例草案的意見及觀點。

**條例草案審議委員會**

5. 一九九五年五月二十六日內務委員會會議席上，議員同意應成立條例草案審議委員會，研究機場管理局條例草案。條例草案審議委員會於一九九五年六月一日舉行首次會議，黃匡源議員及黃秉愧議員分別獲推選為正副主席。條例草案審議委員會成員名單載於附錄I。

## 條例草案審議委員會的審議工作

6. 條例草案審議委員會曾與政府當局舉行八次會議，並逐一審議該條例草案的每項條文。在一九九五年七月四日舉行的最後一次會議席上，政府當局表示將會考慮就該條例草案提出若干項委員會審議階段條訂，並在動議恢復二讀辯論該條例草案時，就若干問題作出聲明。由於當局需進一步諮詢有關的專家，此等文件仍有待擬定。條例草案審議委員會曾審議的主要問題及討論的要點撮錄於下文各段。

### 機場管理局及董事會

7. 議員曾詢問機管局與董事會之間的關係。政府當局作出以下澄清：機管局為法人組織，而董事會並非及毋須為法人組織。在任何時間，機管局均會透過董事會履行其職能，法團的所有活動均不能由機管局的個別人士或一組成員進行。因應議員的意見，政府當局將會考慮就草案第13(2)條提出委員審議階段修訂，以「董事會」一詞代替「管理局」一詞。

### 保障公眾利益的措施

8. 政府當局向議員保證，雖然機管局須按照審慎的商業原則處理其業務，但該條例草案已訂定多項措施，可保障公眾的利益。該等措施包括：(a) 機管局的營運目標已特別訂明，該局在處理其業務時，須顧及安全、保安、經濟及營運效率；(b) 公職人員（董事會會議至少須有兩名公職人員出席方足法定人數）須在會議席上說明有關公眾利益的問題（草案第14(a)條）；(c) 總督會同行政局可向機管局作出指示（草案第20條）；(d) 財政司可規定，除獲其同意外，機管局不得轉委其職能（草案第9(3)條）；(e) 財政司可規定機管局撤銷一項轉委；除非該項轉委屬經其批准的不可撤銷轉委（草案第9(2)(d)條）；(f) 總督可指示機管局不得在未獲財政司事先同意的情況下，借入超過某一指明限額的款項（草案第28(4)(a)條）；(g) 機管局只可將當其時可供投資的資金投資於財政司以書面批准的類別或指明的項目（草案第25條）；(h) 布政司可規定機管局補救欠妥之處，例如有關機場的實體狀況（草案第39條）；(i) 主席及行政總監須為不同人士（草案第3(3)(a)條）；及(j) 機管局在處理或轉讓載於批地文件及位於機場島上的土地及建築物時，須受嚴格的管制，在土地批文上的該等限制，除獲財政司事先批准外，不得加以改變（草案第16(1)條）。

9. 議員要求政府當局考慮在經濟就恢復二讀辯論該條例草案的演辭中，說明政府認為機管局董事會內公職人員應發揮何種作用。政府當局同意加以考慮。



10. 然而民主黨仍然關注該條例草案未能就機場管理局的營運目標在市民大眾的利益與審慎的商業利益之間取得適當的平衡，該黨將會考慮提出委員會審議階段修訂，在草案第6條加入此項原則。

#### 總督會同行政局向機場管理局發出指令的權限

11. 議員察悉，草案第20(1)條條文意味倘機管局在處理某項事情方面有酌情決定權，總督會同行政局亦可就此方面發出指令。然而，倘該條例草案第6條以外的條文規定機管局不得從事或有責任從事某事項，總督會同行政局不得指令機管局從事或不從事該事項。

#### 機場管理局的管理事宜

12. 因應議員的提議，政府當局表示將會考慮提出下列委員會審議階段修訂：

- (a) 草案第9條所載列有關機管局轉委及再轉委其職能的規定，改為除獲財政司事先批准外，只可轉委予機管局成員、僱員、附屬公司及機管局設立的委員會(草案第9條)；
- (b) 機管局設立的委員會的主席須為機管局成員(草案第10(2)(d)條)；
- (c) 董事會會議的法定人數，須包括兩名非公職人員(草案第11(8)條)及在括弧內的「主席」一詞後加入「及行政總監(如適用)」(草案第(11)(13)條)；及
- (d) 關於指派職能予行政總監的事宜，將根據條例第3(6)(b)(ii)條(草案第15(1)(b)條)，而此等指派或指令可於某個指定日期屆滿或終止(草案第15(1)(d)條)。

13. 政府當局表示將會考慮在經濟司就恢復二讀辯論該條例草案的演辭中，加入一項聲明，使各有關的專業團體，可就委任機管局成員的事宜提出意見，供政府當局考慮。然而，民主黨會就草案第3(3)(a)條提出委員會審議階段修訂，使其成員的三分一經由立法局提名。

## 加強機場管理局的公眾監管

14. 政府當局表示將會考慮提出一項委員會審議階段修訂，使機管局可管有機管局成員根據草案第13(1)條申報利益的紀錄。倘公眾人士提出要求，此份紀錄可供查閱。

15. 民主黨將考慮會否提出一項委員會審議階段修訂，以規定所有申報的利益，包括在委任時或在董事會會議期間根據草案第13(1)及(2)條作出的申報，均應公開予公眾人士查閱。

16. 鑑於政府當局屬意讓機管局自行決定其會議是否公開進行，民主黨將會提出一項委員會審議階段修訂，規定除涉及敏感的商業事項或特定人事問題的會議外，機管局的會議應公開進行。

## 機場管理局財務方面的事宜

17. 議員提出下列建議：(a) 在草案第24條以‘expenditure’一詞取代‘expenses’一詞；(b) 草案第29(4)條的中文本應予改善；及(c) 草案第32(2)條所指的帳目報表予以修訂，以顧及損益帳及現金流量表均涵蓋整個財政年度的狀況此一事實。政府當局表示將會考慮就此方面提出委員會審議階段修訂。

## 審計委員會

18. 議員曾詳細討論審計委員會的功能，並同意該委員會應向機管局負責。議員察悉，政府將會透過董事會內的公職人員，留意審計委員會曾審議的問題及關注的範疇(如有的話)。議員對核數署署長、庫務署署長或財政科的代表應否出任審計委員會有不同意見。政府當局向議員解釋，雖然當局不能提出為何審計委員會的主席必須為非公職人員的理由，但預期實際上將會出現此種情況。議員要求政府當局考慮在經濟司就恢復二讀辯論該條例草案的演辭中在此方面提及此點。議員希望獲悉審計委員會須負責工作的概況。政府當局表示將會考慮在經濟司就恢復二讀辯論該條例草案的演辭中作出聲明，表示會要求機管局考慮在其每年的工作報告中，匯報審計委員會的工作。

19. 政府當局表示將會考慮提出一項委員會審議階段修訂，使審計委員會應包括至少三名成員(草案第31(1)條)。

## 核數師

20. 政府當局表示將會考慮提出一項委員會審議階段修訂，使草案第32(3)條所述的「核數師」不應為機管局的成員、審計委員會的成員或機管局的僱員。政府當局請議員注意專業會計師條例第29(2)條。

21. 李家祥議員認為，倘政府當局決定提出上文第20段所述的修訂，將毋須提出委員會審議階段修訂，以「一間獨立的執業會計師行」取代「核數師」一詞。惟此項提議仍須由其專業內的同事確定。

22. 然而民主黨將會就草案第32條提出一項委員會審議階段修訂，修訂有關審計的條文，使機管局的帳目結算表由核數師署署長審核，及在有關需要時機管局將會就核數署署長提供的服務給予報酬。

## 經營計劃

23. 政府當局表示將會考慮規定機管局須向財政司提交其五年經營計劃，而非一年的經營計劃(草案第33條)。此外，政府當局會考慮在經濟司的演辭中說明機管局將會不時向立法局簡報其商業項目及主要的擴展計劃。

## 機場的各項收費

24. 關於機場各項收費的諮詢事宜，政府當局將會考慮在經濟司就恢復二讀辯論該條例草案的演辭中提及有關事宜。

## 機場管理局的一般權力

25. 政府當局亦表示將會考慮提出一項委員會審議階段修訂，刪除草案第7(2)(f)條「與機場業務有關或其他」等字眼。

## 委員會審議階段修訂

26. 政府當局經諮詢專家以確定其對審議中的委員會審議階段修訂的立場後，將會擬備有關的委員會審議階段修訂草擬本，供議員考慮。

27. 民主黨將會另行擬備其委員會審議階段修訂的草擬本。

## **建議**

28. 條例草案審議委員會建議，倘政府當局的委員會審議階段修訂備妥，應於一九九五年七月十九日立法局會議席上恢復二讀辯論該條例草案。

## **諮詢意見**

29. 請議員支持上文第28段所述條例草案審議委員會的建議。

立法局秘書處  
一九九五年七月四日



**機場管理局條例草案  
審議委員會**

成員名單

黃匡源議員(主席)  
黃秉槐議員(副主席)  
夏佳理議員  
鮑 磊議員  
麥理覺議員  
陳偉業議員  
詹培忠議員  
李永達議員  
李家祥議員  
潘國濂議員  
楊孝華議員  
曹紹偉議員