

立法會
Legislative Council

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Finance Committee of the Legislative Council

**Minutes of the 19th meeting
held at the Legislative Council Chamber
on Monday, 24 September 2001, at 2:00 pm**

Members present:

Dr Hon Philip WONG Yu-hong (Chairman)
Hon NG Leung-sing, JP (Deputy Chairman)
Hon Kenneth TING Woo-shou, JP
Hon James TIEN Pei-chun, GBS, JP
Hon David CHU Yu-lin, JP
Hon Cyd HO Sau-lan
Hon Albert HO Chun-yan
Ir Dr Hon Raymond HO Chung-tai, JP
Hon LEE Cheuk-yan
Hon Martin LEE Chu-ming, SC, JP
Hon Eric LI Ka-cheung, JP
Hon Fred LI Wah-ming, JP
Hon Margaret NG
Hon James TO Kun-sun
Hon CHEUNG Man-kwong
Hon HUI Cheung-ching, JP
Hon CHAN Kwok-keung
Hon CHAN Yuen-han, JP
Hon Bernard CHAN
Hon CHAN Kam-lam
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon LEUNG Yiu-chung
Hon SIN Chung-kai
Hon Andrew WONG Wang-fat, JP
Hon WONG Yung-kan

Hon Jasper TSANG Yok-sing, JP
Dr Hon YEUNG Sum
Hon YEUNG Yiu-chung, BBS
Hon LAU Kong-wah
Hon Mrs Miriam LAU Kin-yee, JP
Hon Ambrose LAU Hon-chuen, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk
Hon Timothy FOK Tsun-ting, SBS, JP
Hon LAW Chi-kwong, JP
Hon TAM Yiu-chung, GBS, JP
Dr Hon TANG Siu-tong, JP
Hon LI Fung-ying, JP
Hon Henry WU King-cheong, BBS
Hon Tommy CHEUNG Yu-yan, JP
Dr Hon LO Wing-lok
Hon IP Kwok-him, JP
Hon LAU Ping-cheung
Hon Audrey EU Yuet-mee, SC, JP

Members absent:

Dr Hon David LI Kwok-po, GBS, JP
Dr Hon LUI Ming-wah, JP
Hon Mrs Selina CHOW LIANG Shuk-ye, JP
Hon Howard YOUNG, JP
Hon LAU Chin-shek, JP
Hon LAU Wong-fat, GBS, JP
Hon Andrew CHENG Kar-foo
Hon SZETO Wah
Hon Abraham SHEK Lai-him, JP
Hon Michael MAK Kwok-fung
Hon Albert CHAN Wai-yip
Hon LEUNG Fu-wah, MH, JP
Hon WONG Sing-chi
Hon Frederick FUNG Kin-kee

Public officers attending:

Hon Antony LEUNG, GBS, JP
Ms Sandra LEE, JP
Mr Stanley YING, JP
Mr K K LAM

Financial Secretary
Secretary for Economic Services
Acting Secretary for the Treasury
Principal Executive Officer (General),
Finance Bureau

Mr Alex AU, JP	Acting Director-General of Civil Aviation
Mr Benedit LAI	Acting Law Officer (Civil Law)
Mr C H WONG	Acting Deputy Law Officer (Civil Law)

Clerk in attendance:

Ms Pauline NG	Assistant Secretary General 1
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Staff in attendance:

Mr Jimmy MA	Legal Adviser
Miss Polly YEUNG	Chief Assistant Secretary (1)3
Mrs Eleanor CHOW	Senior Assistant Secretary (1)4

Item No. 1 - FCR(2001-02)34

APPROVAL FOR PUBLIC OFFICERS TO GIVE GUARANTEES UNDER THE PUBLIC FINANCE ORDINANCE (CAP.2) AND THE AIRPORT AUTHORITY ORDINANCE (CAP.483)

The Chairman informed members that this special meeting was convened at the urgent request of the Administration to consider a proposal to give approval for the Government to provide guarantees under the Public Finance Ordinance (Cap.2) and the Airport Authority Ordinance (Cap.483). As the discussion paper was only tabled at the meeting, he would invite the Administration to introduce the paper before inviting questions from members.

2. Mr James TO declared that he might have an interest in the matter under consideration as he held a few thousand shares of Cathay Pacific Airways.

3. In introducing the proposal, the Secretary for Economic Services (SES) highlighted that the proposed measures were only temporary arrangements whereby the Government filled a short-term gap under the present circumstances to avoid any major disruption to the Hong Kong International Airport (HKIA) and the local aviation industry. The Government had no intention to act as an insurer. She also stressed the importance for Hong Kong to maintain its status as a centre of international and regional aviation in accordance with Article 128 of the Basic Law and confirmed that the three airlines in question were Hong Kong-based airlines as provided for under the Basic Law. The Airport Authority (AA) was wholly owned by the Government while its related service providers were all companies registered in Hong Kong.

4. Members acknowledged that the present proposal aimed at providing a contingency arrangement to avoid disruption to Hong Kong's aviation service. They were however concerned about the financial responsibility of the Government in providing guarantee to indemnify AA, its related service providers and the three Hong Kong-based airlines for third party liabilities covering the scope excluded by insurers. They also queried whether the proposed arrangement would discourage the parties concerned to reach an agreement with insurers on the excluded third party liabilities.

5. Mr TSANG Yok-sing asked whether the Administration was confident that the HKIA could operate normally if the proposed guarantee was approved by the Finance Committee (FC), especially if it was uncertain whether foreign aircraft would be able to operate their services to Hong Kong. Miss Cyd HO also enquired about the need to provide the proposed guarantee for AA's related service providers.

6. In response, SES advised that as a centre of international and regional aviation, Hong Kong handled the highest volume of international freight traffic and the fifth highest volume of international passenger traffic worldwide. She said that the three Hong Kong airlines could not operate their services if they could not secure sufficient insurance coverage for their aircraft. Meanwhile, the Administration hoped that foreign aircraft would be adequately insured for their services to Hong Kong. AA's related service providers were also bound by contractual requirements to have adequate insurance cover for their third party liabilities, failing which they might not be eligible to provide the airport-related services.

7. Dr TANG Siu-tong asked whether it was possible to provide the proposed guarantees to AA and its service providers only and not to the three airlines. In reply, SES advised that the three airlines accounted for over 30% of the flights to and from Hong Kong. The airlines and their related services also provided employment opportunities for local people. Cessation of their services would bring about serious consequences.

8. As regards the measures undertaken by overseas countries to deal with the problem, SES informed members that loans, compensations and indemnity were available in the United States. In the United Kingdom, an insurance scheme was in place to provide the necessary insurance coverage. Some form of guarantee or indemnity was provided by the Governments in Germany and Australia while some other Governments took up the liability for some of their state-owned airlines.

9. Miss Margaret NG appreciated that the present proposal was a stop-gap measure. She nevertheless questioned the justification for the six-month duration of the guarantees vis-a-vis the arrangements adopted by overseas governments. She reiterated her view that given the urgency of the matter, the

Administration should only seek the minimal powers to enable it to provide the necessary assistance.

10. In response, SES advised that according to available information, the indemnity provided by the United States was for a 180-day period. In the United Kingdom, the insurance scheme was not subject to any maximum duration and the charge for the first 30 days was waived. In Germany, the guarantee was initially for one month and for a maximum of US\$20 billion per air carrier, while in Australia, the guarantee was renewable month to month. SES said that the Administration was not aware of any other jurisdictions which had put a limit on the duration of the guarantees.

11. Mr James TIEN also considered that limiting the proposed guarantees to about one month would be more effective in encouraging the parties concerned to reach an agreement. Miss Cyd HO expressed grave concern about the six-month duration of the proposed guarantees in the absence of detailed information on the terms of the legal instruments to be entered into. Mr Martin LEE considered that a guarantee for one month would suffice as according to his understanding, the aviation industry and the insurers were in the final stage of their negotiation. A six-month guarantee might become a disincentive for the parties to resolve the matter early.

12. Dr YEUNG Sum said that while Members of the Democratic Party (DP) supported the present proposal which sought to ensure the smooth operation of the aviation services, they found it difficult to support a maximum duration of six months for the guarantees. He urged the Administration to limit the proposed guarantees to one month and revert to FC if necessary.

13. Miss CHAN Yuen-han and Miss Emily LAU agreed that the present proposal was the right move. However, they considered that initially, it would be more desirable for FC to give approval for the proposed guarantees for a shorter period of, say, one month. Mr Tommy CHEUNG shared similar concerns and sought the Administration's view on whether the six-month period could be reduced.

14. While sharing some members' view that it was desirable to shorten the proposed guarantee to one month, Mr Eric LI considered that a six-month period would only be acceptable if the Administration undertook to report progress of the matter to the Economic Services Panel on a monthly basis. In the absence of any arrangement to enable Members to monitor progress, a six-month period would appear excessive.

15. Ms Audrey EU considered it more appropriate to limit the guarantee to a shorter period of time and asked whether the Administration would be prepared to provide another option for members to consider.

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16. In response, the Financial Secretary (FS) and SES stressed that the six-month duration was only the maximum period for which approval was being sought. The Government would still have the flexibility of imposing a shorter period of guarantee for individual cases. Referring to Mr Kenneth TING's question on the insurer's right to withdraw or reduce coverage by giving the requisite notice, FS pointed out that it was due to the need to cater for such eventuality that the Administration was seeking FC's approval to provide the proposed guarantees for a maximum period of six months.

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17. Miss Cyd HO requested the Administration to provide a copy of the legal documents for members' perusal after they had been drawn up with the parties concerned. In reply, SES said that disclosure of the agreement would require the consent of both parties. However, the Administration would provide a paper summarizing the provisions of the agreements for members' reference if approval was given to the proposed guarantees for six months.

18. Mr Martin LEE asked why the Administration had not submitted the present proposal earlier. In reply, SES explained that aviation insurance was an issue to be resolved between the insurers and the aviation industry. The Government would only step in at the last moment when it was envisaged that a new arrangement might not be reached before the expiry of the current arrangement. That was the reason why the urgent item was put before FC for its consideration as the current arrangement would expire on 25 September 2001 but new arrangements had not yet been drawn up.

19. On the Government's financial liability, SES advised that the present proposal, if approved, would commit the Government to provide a maximum indemnity of US\$1.95 billion per occurrence to Hong Kong based airlines, US\$1.25 billion per occurrence to the AA and, through the AA, US\$1 billion per occurrence to related service providers operating at the HKIA when required. The maximum level of indemnity from the Government would be the difference between the prevailing level of coverage being withdrawn by the insurers and any new coverage made available to the parties concerned.

20. Addressing Miss Margaret NG's concern about the Government's financial capability to provide the proposed guarantees, FS pointed out that the eventual claim, if any, on the Government would depend on the number of occurrences and the number of operators affected on each occasion. To illustrate, assuming that one such event hit a Hong Kong based airline, concerned service providers and the AA at the same time, the Government's indemnity might amount to about HK\$62 billion, which was within the financial means of the Government. However, the probability and risks of such an incident taking place might not be high.

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21. Miss Cyd HO considered that apart from the occurrence-based liabilities, the Administration should also assess its overall risk exposure. Mr NG Leung-sing said that the Administration should make further assessment and advise the community of the worst possible scenario.

22. Mr Albert HO acknowledged the urgency and serious implications of the present proposal. However, referring to the circumstances listed in Annex A of the paper leading to the withdrawal/reduction of insurance coverage, he queried why perils such as confiscation, nationalization etc which did not seem to have any relevance to the September 11 incident in the United States had been included.

23. In response, SES advised that aviation insurers worldwide had given notice to airlines, airport operators and related service providers pursuant to terms in the current insurance policy that third party liability coverage in the case of war, hijacking and other perils would be reduced drastically or totally withdrawn. The scope of the perils as set out in Annex A was applied by aviation insurers worldwide and was not unique to Hong Kong. SES also confirmed that the Administration had perused the relevant insurance policies and the terms stipulated therein.

24. In this connection, FS advised that aviation insurers were entitled to reduce or withdraw insurance coverage for liabilities arising from war, invasion, riots, hijacking etc. at very short notice for further negotiation with the insured for a higher level of premium as the existing premium for coverage against such risks was usually very low. FS believed that in the foreseeable future, there should be insurers willing to provide the necessary coverage at a new premium subject to mutual agreement with the insured parties. Pending the conclusion of any such arrangement, there was a need for the Government to fill the temporary gap to prevent disruption to Hong Kong's international air services.

25. Mr Bernard CHAN, representative of the insurance constituency in the Legislative Council, said that as he understood, the proposed guarantees by the Government would only apply to the insurance coverage for liabilities arising from bodily injury and property damage to third parties caused by the six scenarios listed in Annex A of the paper, which was in fact an extension of the insurance coverage for third party liabilities. SES confirmed that third party liabilities arising from factors other than those perils listed in Annex A would not be covered under the present proposal.

26. In reply to Mr Fred LI's enquiry about malicious act or act of sabotage, the Acting Law Officer (Civil Law) (LO(CL)) advised that insurance coverage was being reduced/withdrawn by insurers for liabilities arising from bodily injury and property damage to third parties caused by any malicious act or act of sabotage. "Third parties" excluded the airlines and their passengers.

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27. Mr HUI Cheung-ching was concerned that the present proposal would set a precedent for Government intervention to bail out private enterprises which, in their business undertakings, should have taken into account the risks involved.

28. In response, FS stressed that the present proposal was not meant to assist individual enterprises, but to deal with a systemic and worldwide crisis with a view to minimizing the impact on Hong Kong. Given the importance of the aviation industry to the economy of Hong Kong, the Government must take measures to ensure the normal operation of essential economic activities and to allow time for the parties concerned to continue negotiation for commercial insurance coverage.

29. Mr LAU Kong-wah was concerned about the aviation industry's reliance on the Government's assistance. Miss Emily LAU remarked that the concerned parties might not be prepared to take up a larger extent of risk exposure if the Government had already committed to provide the proposed guarantees.

30. In response, FS referred to the charge to be imposed by the Government for the guarantees which would not be lower than the rate available in the commercial market. In principle, if an aviation operator could seek the necessary insurance coverage, the Government's guarantee would not be required. As to whether the higher premium to be paid by airlines and related parties would ultimately be transferred to the users, this would be a decision for the corporations concerned.

31. Mr Fred LI and Miss Emily LAU sought clarification on the scope of the approval being sought from FC. SES responded that the current proposal sought members' approval for the Government to give a guarantee to provide a maximum indemnity as detailed in paragraph 9 of the paper when required. The Acting Secretary for the Treasury (S for Tsy) advised that should it become necessary for the Administration to incur expenses as a result of the indemnity, the existing arrangements for seeking supplementary provision would apply, i.e. if the amount involved did not exceed HK\$10 million, such expenditure could be approved by the Secretary for the Treasury under delegated authority, whereas expenditure exceeding HK\$10 million would require the approval of FC.

32. In this connection, the Legal Adviser (LA) pointed out that the aforesaid arrangements would apply to the proposed guarantee in respect of the three airlines (paragraph 3a) of the paper). However, the guarantee to be given by FS to indemnify AA and its related service providers (paragraph 3b) of the paper) would be subject to a different arrangement. Under section 29 of the Airport Authority Ordinance (Cap. 483), where FS was authorized by the Legislative Council to give a guarantee and if necessary, attach conditions

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there to, any sum required to implement the guarantee would be charged on and paid out of the general revenue. As such, LA was of the view that approval of FC was not required for the expenditure incurred in indemnifying AA and its related service providers. LO(CL) concurred with LA's view. As to whether the guarantee relating to AA and its service providers was subject to any ceiling, FS confirmed that the maximum indemnity was limited to US\$1.25 billion and US\$1 billion respectively per occurrence per party. In view of the importance of the matter, Miss Emily LAU asked whether the Administration would seek FC's approval for expenditure incurred under the proposed guarantee for AA and its service providers although there might not be any statutory requirement to do so. In reply, FS said that the Administration would provide a paper on such expenditure for members' information.

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33. Miss Emily LAU sought clarification on the implications of approving the present proposal and whether such approval would affect FC's power to examine and approve individual expenditure proposals arising from the guarantees in future. In this regard, the Clerk to FC pointed out that as the present proposal was seeking members' approval for a new commitment, individual expenditure proposals arising from the said commitment in respect of the airlines (paragraph 3a) of the paper) exceeding \$10 million would still require FC's approval in accordance with the usual procedures.

34. S for Tsy pointed out that theoretically members could approve the present proposal to provide the guarantees and yet vote down future expenditure arising from such guarantees, but in practice this would put Government in a very difficult position. LO(CL) confirmed that if the present proposal was approved, it would commit the Government to take up a legal responsibility to provide the guarantees as specified in the discussion paper.

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35. As reference was made to various sections of Ordinances in the discussion paper, Miss Emily LAU requested the Administration to include the relevant legislative provisions in future papers for members' easy reference.

36. Miss Margaret NG noted that under section 5 of the Civil Aviation (Insurance) Order, "an aircraft shall not land or take off in Hong Kong unless there is in force in relation to the use of that aircraft in Hong Kong a policy of insurance that complies with section 6". As the Administration had stressed that it was not providing any insurance coverage for the three airlines, Miss NG doubted whether approval of the present proposal would still fall short of the statutory requirement which airlines had to comply with. Her concern was shared by Mr James TO. Mr LAU Ping-cheung also enquired about the requirement on insurance coverage for aircraft flying into Hong Kong.

37. In response, the Acting Director-General of Civil Aviation (DG of CA) and LO(CL) advised that under the Civil Aviation Ordinance (Cap.448), all airlines operating to or from Hong Kong had to hold a policy of insurance to

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adequately cover their liabilities. If the airlines could provide insurance coverage up to the requisite amount (the Combined Single Limit for the biggest type of aircraft being US\$1 billion), the legislative requirement would be fulfilled.

38. LO(CL) and the Acting Deputy Law Officer (Civil Law) elaborated that under section 6 of the Civil Aviation (Insurance) Order, the policy of insurance in respect of an aircraft must cover six types of risks, one of which was third party risks. While the insurance coverage for third party liabilities caused by perils such as war, hijacking etc had been reduced to US\$50 million, it was understood that the Combined Single Limit for the insurance coverage for the biggest type of aircraft had not been reduced to below US\$1 billion. Hence, the requirement under the Civil Aviation Ordinance could be met. DG of CA nevertheless pointed out that apart from the legislative requirement, it should be noted that most of the aircraft owned by airlines were leased from financing companies which required a level of insurance coverage for war, hijacking, etc. much higher than US\$50 million. Unless such contractual requirement was also fulfilled, the aircraft concerned could not operate. Moreover, other foreign airport authorities might also have a higher requirement on insurance coverage.

39. Mr James TO was concerned that the scope of third party risks for the purpose of section 6 of the Civil Aviation (Insurance) Order had not been clearly spelt out. In reply, DLO(CL) pointed out that it was not for the Government to spell out the scope or components of third party risks which should be covered. The law only required a combined single limit coverage for the insurance policy in question.

40. In reply to Miss Emily LAU's enquiry about the economic loss arising from the closure of the airport, FS pointed out that although the Administration had not made any official assessment, the economic loss would likely be huge as apart from the immediate economic losses, Hong Kong's reputation would also be tarnished.

41. Mr LEE Cheuk-yan was concerned about the global economic crisis and the growing dominance of multi-national corporations over governments. He asked whether Hong Kong would seek international co-operation in tackling the problem. In response, SES said that although so far, no government had yet taken the lead, Hong Kong would be prepared to consider joint efforts with the international community to tackle this particular problem of aviation insurance if there were international consensus to tackle it.

42. Miss Cyd HO opined that in the wake of the September 11 incident and its serious impact on all sectors of the economy, the Administration should conduct a thorough assessment of the current situation and report its findings to the community and the Legislative Council.

43. Mr NG Leung-sing asked whether the Government would consider setting up an insurance body to provide the necessary insurance coverage if no commercial insurer was willing to offer the coverage, instead of seeking to renew the proposed guarantees once every six months. He remarked that the public corporation might be privatized in due course.

44. In response, FS reiterated that the present proposal was an exceptional arrangement to deal with an exceptional situation. Under normal circumstances, the Government would not intervene and compete with the private sector in the provision of services. He therefore did not see the need to set up a public corporation as suggested by Mr NG.

45. Ms Audrey EU and Mr TSANG Yok-sing questioned the appropriateness of using the level of the old insurance coverage as the maximum indemnity for the Hong Kong-based airlines, AA and its related service providers, when the Combined Single Limit under the Civil Aviation Ordinance only required a coverage of not less than US\$1 billion for large aircraft. Mr Eric LI said that the basis for the proposed maximum indemnity of US\$1.95 billion for the airlines had not been clearly accounted for. Mr James TIEN also shared the concern and sought clarification on the extent of indemnity for individual service providers.

46. In reply, SES informed members that the proposed maximum commitment for the guarantees had been worked out with reference to the existing insurance coverage which had been stipulated under the existing insurance policy. If the parties concerned were prepared to take on part of the liabilities and/ or to secure partial insurance coverage, the Government's maximum commitment under the proposed guarantee would be correspondingly reduced. She reiterated that the existing insurance coverage had been taken out by the parties concerned in order to fulfil the legislative and contractual requirements for their operation. The proposed maximum indemnity of US\$1 billion for AA's related service providers was on a per occurrence basis. In the event that several providers were involved in an occurrence, the indemnity question was a complex legal issue which would require further examination.

47. Mr Eric LI suggested that to safeguard the Government's position, terms should be included in the relevant agreement to provide for independent claims assessment by professional adjusters. Mr Albert HO enquired whether the Government would conduct independent assessment into claims for indemnity for third party liabilities. In reply, SES advised that this would have to be decided in the light of the circumstances of the case. Where necessary, the Administration might need to engage the service of professionals.

48. Ms Audrey EU was concerned about the high premium likely to be charged on the parties concerned and whether the Administration had any

contingency plans to deal with the situation. In response, SES reiterated that the present proposal was only a stop-gap measure and the Administration would expect that the aviation industry would eventually resolve the problem through negotiation with the insurers.

49. Mr Eric LI commented that in the course of negotiation, it was likely that aviation insurers would raise the level of premium and attach additional conditions on the insurance policy. He considered that to enable the Administration to monitor the situation and ensure that both parties were making genuine efforts to reach an agreement, the parties concerned should be required to inform the Administration periodically of the progress of negotiation. He said that the three airlines might take up part of the insurance coverage so as to reduce the Government's commitment. He further asked if the Government could vary the charge in respect of high-risk routes.

50. Mr James TO shared Mr Eric LI's concern and considered that the Government should consider including terms in the legal instrument requiring the parties concerned to report progress of negotiation to enable the Government to set and vary the charge in the light of the evolving market. Mr Kenneth TING was concerned about measures to encourage the parties to seek commercial insurance coverage.

51. In response, SES advised that in the past few days, the airlines had kept the Administration posted of the latest progress in their negotiations with insurers. She pointed out that by imposing a charge comparable to the commercial rate, the Administration was providing an incentive for the recipients to actively seek commercial insurance coverage. As the Government was not performing the role of an insurer, not all the prevailing practice in the insurance trade would be incorporated into the relevant legal instruments. SES added that the proposed guarantees were occurrence-based and individual airlines should have conducted risk assessments on their service routes.

52. Mr TSANG Yok-sing noted that at present, no commercial insurer was willing to provide the necessary coverage. He thus queried how the charge would be fixed with reference to the market rate. Mr Albert HO also enquired about the Government's flexibility in varying the charge.

53. In response, FS reiterated that the failure to obtain commercial insurance coverage under the prevailing market conditions was a major reason for the Government's proposed course of action. He assured members that in setting the charge, the Administration would make reference to all relevant factors including the premium being negotiated between the parties concerned and the insurers. The relevant legal instruments would contain terms to enable the Government to review and vary provisions as necessary. The Government could also terminate the guarantees by giving seven days' notice.

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54. Mr Bernard CHAN informed members that previously, the premium for third party liabilities arising from perils such as war, hijacking etc. was very low. However, in the wake of the September 11 incident, the insurance industry was faced with estimated claims of some US\$30 billion. He appreciated the difficulty in working out the charge at this stage as the insurance industry worldwide had yet to work out the level of premium that should be charged. He nevertheless urged for early approval of the present proposal to ensure uninterrupted aviation services.

55. In view of members' grave concern expressed on the duration of the proposed guarantees, the Chairman sought the Administration's view on some members' suggestion to reduce the proposed period from six months to one month. At FS's request, the Chairman suspended the meeting.

56. When the meeting resumed, the Chairman invited response from the Administration. FS thanked members for their suggestions and support. He recapitulated that if the present proposal was approved, it would commit the Government to provide the maximum level of indemnity as specified in the paper. Although under certain circumstances, the Government would need to seek FC's further approval in accordance with the Public Finance Ordinance (Cap. 2) in case actual payment was required. As such, FS remarked that the companies covered by the guarantee would legitimately expect that Members would give their approval. FS appreciated members' concerns about the Government's risk exposure, given that the maximum indemnity was occurrence-based while the number of occurrences and affected parties could not be ascertained. He nevertheless stressed that it was for these reasons that commercial insurers were not prepared to provide the necessary insurance coverage, thus necessitating short-term measures to be taken by the Government.

57. Having considered members' views, FS proposed to amend the present proposal to the effect that the proposed guarantees would be for a period of three months, instead of six months. If the proposal as amended was approved, the Administration would report progress to the Panel on Economic Services each month, and provide the Panel with a summary of the legal agreements with the parties concerned. FS confirmed that provisions for seven days' notice for termination and variation of terms would be included in the legal instrument. The parties concerned would also be required to report their negotiation with insurers to the Government. FS added that the Administration had been maintaining close liaison with the parties concerned.

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58. At the request of Miss Margaret NG, the Chairman suspended the meeting for five minutes to enable members to consider the Administration's proposed amendments to the proposal.

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59. When the meeting resumed, FS advised that after further discussion with members, the Administration would amend the present proposal to invite members to give approval for the Government to provide guarantees to indemnify Hong Kong based airlines, AA and its related service providers, for third party liabilities arising from war, hijacking and other perils for a period of one month commencing GMT 0000 on 25 September 2001 subject to certain principles being followed. Should it be necessary for the Administration to revert to FC after one month, FS urged members to support the future proposal as well.

60. The Chairman put the proposal to vote. The Committee approved the proposal.

61. The Committee was adjourned at 5:55pm.

Legislative Council Secretariat
16 November 2001