

立法會
Legislative Council

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Legislative Council
Panel on Economic Services

Minutes of special meeting held on
Tuesday, 6 March 2001, at 4:30 pm
in the Chamber of the Legislative Council Building

Members present : Hon James TIEN Pei-chun, JP (Chairman)
Dr Hon LUI Ming-wah, JP (Deputy Chairman)
Hon Kenneth TING Woo-shou, JP
Hon Eric LI Ka-cheung, JP
Hon Fred LI Wah-ming, JP
Hon CHEUNG Man-kwong
Hon HUI Cheung-ching
Hon CHAN Kam-lam
Hon SIN Chung-kai
Hon Howard YOUNG, JP
Hon LAU Chin-shek, JP
Hon Mrs Miriam LAU Kin-yee, JP
Hon CHOY So-yuk
Hon Henry WU King-cheong, BBS
Hon Audrey EU Yuet-mee, SC, JP

Non-Panel members attending : Hon Albert HO Chun-yan
Hon LEE Cheuk-yan
Hon CHAN Yuen-han
Hon Andrew WONG Wang-fat, JP
Hon Emily LAU Wai-hing, JP
Hon Michael MAK kwok-fung

Members absent : Dr Hon David LI Kwok-po, JP
Hon Mrs Selina CHOW LIANG Shuk-ye, JP
Dr Hon Philip WONG Yu-hong
Hon Abraham SHEK Lai-him, JP

**Public officers
attending**

: Economic Services Bureau

Ms Sandra LEE, JP
Secretary for Economic Services

Mr Alex FONG
Deputy Secretary for Economic Services

**Attendance by
invitation**

: Hong Kong Mid-stream Operators Association

Mr WONG Miu-sang
Chairman

Mr James SHUEN Wai
Secretary

Mr Kelly WONG Kwok-ying
Treasurer

Mr Daniel LAU Chi-wah
Executive

Ms Karen KWAN Man-ha
Executive

Hong Kong Shippers' Council

Mr Jeffrey LAM
Vice Chairman

Mr Sunny HO
Executive Director

The China-Hong Kong Transportation Joint Conference

Mr Ricky WONG

Mr CHAN Fu-chuen

Mr CHIANG Chi-wai

Mr WONG Charn-kwan

Mr Simon LAU

Clerk in attendance : Mr Andy LAU
Chief Assistant Secretary (1)2

Staff in attendance : Ms Alice AU
Senior Assistant Secretary (1)5

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I Briefing by the Administration on mid-stream surcharge

The Chairman welcomed the representatives of the Administration, the Hong Kong Mid-stream Operators Association (HKMOA), the Hong Kong Shippers' Council (HKSC) and the China-Hong Kong Transportation Joint Conference (CHKTJC) to the meeting. He advised that as this special meeting was convened at very short notice, the Hong Kong Liner Shipping Association (HKLSA), which had all along been involved in the negotiation process, was unable to attend as both its Chairman and Deputy Chairman were out of town.

2. The Chairman recapitulated that when the subject on mid-stream fee (MSF) was last discussed at the Panel's special meeting held on 13 February 2001, the Secretary for Economic Services (SES) informed members that HKMOA, HKLSA and HKSC had reached an understanding on working out a mechanism for collecting MSF immediately before the said meeting. The most important aspect of the preliminary understanding was that mid-stream operators would not seek to collect the \$40 MSF from truck drivers. Meanwhile, HKMOA, HKLSA and HKSC would continue to hold discussions to finalize the operational details of the mechanism.

3. The Chairman also advised that the present meeting was convened by the Panel to discuss the dispute between the truck drivers and the mid-stream operators regarding the operation of the MSF coupon system commencing on 1 March 2001. The dispute had led to blockade actions of truck drivers resulting in serious disruption to local traffic as well as the normal operation of the Hong Kong port. In considering the wide public concern about the incident and taking into account the potential impact of port disruption on Hong Kong's economy, the Panel considered it necessary to review the matter with major stakeholders in the container freight industry so as to prevent any similar events from recurring. As regards general concerns about the operation of Hong Kong's container freight industry such as the terminal handling charge (THC), the Chairman said they would be discussed at the forthcoming regular Panel meeting to be held on 26 March 2001 and the Administration would provide an information paper on the subject for members' information.

Background of the coupon system

4. At the invitation of the Chairman, SES highlighted the development of related

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events between 13 February 2001 and 5 March 2001. She stated that subsequent to 13 February 2001, HKMOA, HKLSA and HKSC had held a series of meetings to discuss a mechanism for collecting MSF, the coupon system was one of the options proposed. On 1 March 2001, disputes erupted between mid-stream operators and truck drivers on implementation of the option. This led to industrial actions taken by the truck drivers. Subsequently, HKMOA and CHKTJC met on 5 March 2001 and reached an agreement to take appropriate steps to ensure that the coupon system could be temporarily implemented, pending the establishment of a new mechanism that could satisfy all parties concerned. Specifically, HKMOA had agreed that it would urge its members to be flexible in implementing the coupon mechanism. In this connection, an information paper provided by the Administration attaching the joint statement issued by HKMOA and CHKTJC on 5 March 2001 was tabled at the meeting and subsequently issued to members vide LC Paper No. CB(1)775/00-01(01). SES said that the Administration hoped that both parties could continue to work together under "a spirit of co-operation and mutual understanding" so as to ensure normal operation.

5. Furthermore, SES stressed that the coupon system was worked out within a relatively short time-frame and the dispute between mid-stream operators and truck drivers in the past few days was caused by certain shortcomings in the implementation of the new mechanism. However, having such dispute did not mean that the agreement reached by the concerned parties on 13 February 2001 was overturned.

6. Mr Fred LI asked whether any previous undertaking had been given by the parties concerned to implement the coupon system. In reply, SES reported that when the preliminary agreement was concluded on 13 February 2001, it was not possible under the circumstances to go into the details as to how the collection mechanism would work. The current payment options were the result of the discussions held amongst the parties concerned.

7. The Deputy Secretary for Economic Services (DS(ES)) elaborated on the Government's role in the matter. He advised that since the outbreak of the controversial MSF incident in November 2000, the Government had acted as a facilitator to enhance communication among different sides. As the incident developed, the Government had made every effort to liaise with the parties concerned and to bring them together for discussions and negotiations with a view to resolving the matter. He stressed that although the issue was fundamentally a business dispute between the trade organizations, the Government had spent a lot of time and resources to maintain continuing dialogue among the parties and help to reduce their misunderstandings.

8. Given that the joint statement was issued by HKMOA and CHKTJC, the Chairman sought clarification on the stance taken by HKSC and HKLSA in this matter. Referring to the submission from the Hongkong Cotton Spinners Association (HKCSA) tabled at the meeting, Mr Fred LI also expressed concern about that stance taken by HKCSA which denounced the coupon charge as a blackmail operation that did not make any sense at all. Since the Association was of the strong view that the shippers

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would not pay any charge directly to mid-stream operators as the shippers were not their direct customers, Mr LI queried whether the shippers were indeed willing to buy the coupons for the drivers.

(Post-meeting note: The submission from HKCSA was subsequently issued to members vide LC Paper No. CB(1)775/00-01(02).)

9. In reply, SES said that the coupon system was one of the arrangements proposed out of the discussions held by HKMOA, HKSC and HKLSA. As regards the stance taken by HKCSA, SES said that she was unclear as to whether HKCSA was a member of HKSC and could not comment on its stance. At the request of the Chairman, Mr Jeffrey LAM of HKSC confirmed that HKCSA was neither a member nor an executive of HKSC.

10. Mr HUI Cheung-ching remarked that as mid-stream operators and truck drivers had no contractual relationship, it was clear that the MSF was in fact targeted at the shippers. However, he was worried that if the coupon mechanism did not have the agreement of the shippers and consignees, they might refuse to reimburse the \$40 MSF if the fee was just paid by drivers at the gate. In that case, he asked whether an appeal mechanism could be put in place to resolve the matter. In response, SES reiterated the understanding reached on 13 February 2001 amongst HKMOA, HKLSA & HKSC jointly that no truck drivers should be required to pay the MSF. She stressed that when the Administration knew that HKMOA, HKLSA and HKSC had decided to implement the coupon system on 1 March 2001 as an interim measure, the Administration had repeatedly urged the parties concerned to be flexible in working out implementation arrangements.

Implementation of the coupon system

11. In view of the concerns raised by members of the public on this matter, Miss Emily LAU sought assurance from the parties concerned that they would collaborate with each other so that no more serious disruptions would be caused to the community as well as the operation of the Hong Kong port. She hoped that through active discussions, the disputes between the concerned parties could be resolved as soon as possible.

12. Acknowledging the grave concerns expressed by members and the public, Mr Kelly WONG of HKMOA considered that with great efforts from all parties concerned as well as Members of the Legislative Council and government officials, the dispute between mid-stream operators and truck drivers on the coupon system had been satisfactorily resolved on 5 March 2001. To that effect, a joint statement was issued by HKMOA and CHKTJC based on a spirit of co-operation and mutual understanding. As mentioned in the joint statement, the coupon system would be implemented temporarily pending the establishment of a new mechanism acceptable to all parties concerned. HKMOA also agreed to urge its members to be flexible in implementing the coupon system and to provide prompt and quality service to all truck drivers regardless of whether they had a coupon or not. He hoped that this joint statement

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could alleviate the worries of members and the public in this matter.

13. Mr WONG also assured members that in the meantime, HKMOA would continue discussions with HKSC and HKLSA with sincerity and good-will so that a trouble-free mechanism could be worked out. When positive results were achieved, members and the public would be duly informed.

14. While highlighting the importance of maintaining the normal operation and competitiveness of the Hong Kong port, Miss CHAN Yuen-han expressed concern about the vague wording used in the joint statement. In this regard, she enquired about the concrete measures to be taken by HKMOA to ensure that its members would adhere to the spirit of the joint statement and that no problems would be created for the truck drivers in the interim. In this connection, the Chairman enquired about the expected timing when the new collection mechanism could be worked out by the parties concerned.

15. In response, Mr Kelly WONG stressed that the joint statement had been carefully worked out and was accepted by both HKMOA and CHKTJC. While HKMOA would try its best to sort out any problems that might arise with sincerity and good-will, it could not make any binding decisions on its members. Reiterating that HKMOA's members would provide the same service to truck drivers regardless of whether they had a coupon or not, he said that it would be adequate to demonstrate the co-operative and conciliatory attitude taken by the Association in the matter.

16. Mr WONG also said that he was optimistic that with concerted efforts from HKMOA, HKLSA and HKSC, a new MSF collection mechanism could be developed. At present, HKMOA was exploring the feasibility of collecting MSF by an electronic means such as Tradelink. Hence, some time would be required for consultation as well as soliciting technical advice on various related issues, such as interfacing between different mid-stream sites. According to initial plan, a new mechanism would be ready in three months' time. In the meantime, he hoped that members could have confidence in HKMOA and allow the Association some time to work out a new mechanism with all concerned parties.

17. In this respect, DS(ES) advised that if an electronic means for collection was adopted, there was a chance that the matter could be resolved fundamentally. As the party responsible for payment could be clearly identified, no meaningless dispute would arise.

18. While stressing that truck drivers should not be held responsible for buying the coupons, Miss CHAN Yuen-han urged HKMOA to take actions to ensure that no problems would be created for the drivers' operation. She opined that if any actions taken by mid-stream operators was in violation of the spirit of the joint statement, it would only hasten the decline of the mid-stream industry. In this regard, she asked whether HKMOA would consider suspending the coupon system before the implementation of the new collection mechanism.

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19. Expressing similar concerns, Mr Albert HO commented that it would be very difficult for front-line staff at mid-stream sites to exercise proper flexibility as long as the coupon system remained effective. In order to put the minds of the drivers and the public at ease, HKMOA should suspend the coupon system and resort to other collection methods which did not involve truck drivers, such as by sending invoices to the shipping lines or shippers. Pointing out that the coupon system did not serve any real purpose at all, Mr LEE Cheuk-yan also supported the members' suggestion to suspend the system for the time being.

20. While noting the members' views, Mr Kelly WONG reported that a few thousand coupons had in fact been sold through various outlets. HKMOA would try to ascertain the reasons why drivers were not given the coupons. Under the circumstances, other problems might arise if mid-stream operators refused to accept the coupons surrendered by the drivers. Nevertheless, he re-assured members that mid-stream operators would not create problems for those drivers who did not have a coupon.

21. In this connection, Mrs Miriam LAU drew members' attention to the fact that the coupon system was a collection mechanism worked out through discussions held among HKMOA, HKSC and HKLSA. However, given the problems arising out of its implementation, she supported the negotiation of another collection system by the parties concerned. She was hopeful that both HKMOA and CHKTJC would make an effort to stand by the promises they made to each other under the joint statement and resolve any disputes through a spirit of mutual co-operation.

22. Mrs LAU further said that since the outbreak of last week's incidents, a system to handle complaints had been set up at the Kwai Tsing District Office. Hence, she encouraged the drivers to refer any complaints to the Office so that they could be resolved at the earliest opportunity. However, if actions were taken by any party against the spirit of the joint statement, the matter would require follow-up by the Panel. In this respect, DS(ES) supplemented that HKMOA had also agreed to set up a hotline to collect the views of other parties.

23. Mr Andrew WONG commented that if the matter could not be resolved satisfactorily, intervention from the Government by way of legislation might be required. In reply, DS(ES) advised that the regulation of business practices by legislation represented a major change in the Government's policy and thus, very careful and thorough consideration would be required. Moreover, different members might have different views on the matter. As the concerned parties were maintaining dialogue with a view to resolving the matter, the Administration did not see the need for such intervention.

Payment of MSF

24. In view of grave public concern, Mr LUI Ming-wah said that the Panel had held two special meetings to discuss the issue of MSF. Notwithstanding the joint statement made by HKMOA and CHKTJC, he was however worried that further

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disruptive incidents might occur if the issues involved were not tackled at root. For this purpose, he sought elaboration from HKMOA on its justifications to impose a MSF and to demand payment from truck drivers.

25. In reply, Mr Kelly WONG highlighted the difficult operating environment faced by mid-stream operators and the declining importance of mid-stream service in handling containers in Hong Kong. He explained that as the mid-stream business was facing stiff competition, there was a need to impose a MSF for services which had previously been provided free-of-charge to the shippers. Taking into account the common practice in the container freight industry and the user-pay principle, HKMOA considered it justified for the shippers to pay the charge.

26. Raising serious doubts about the so-called "user-pay" principle cited by HKMOA, Mr LUI Ming-wah said that he failed to see the logic at all as the shippers had already paid a THC to the shipping lines and a local trucking fee to the truck drivers. Given that the clients of mid-stream service were the shipping lines, he opined that mid-stream operators should approach the shipping lines who were their signed contracts' counterpart for the payment of MSF, and not the shippers and consignees who had no contractual relationship with mid-stream operators.

27. Sharing similar views, Miss CHOY So-yuk said that while she was not against HKMOA's commercial decision to levy a surcharge, HKMOA should ask the proper party to pay up. In this respect, she queried about the difficulties faced by mid-stream operators if they requested payment from shipping lines. Mr Fred LI also questioned whether it was because mid-stream operators did not have the power to bargain with the shipping lines.

HKSC's stance

28. Referring to the coupon system implemented on 1 March 2001, Mr Jeffery LAM said that as HKMOA only made an announcement on 22 February 2001, HKSC considered that inadequate notice was given. He also informed members that as far as he knew, the coupon system did not have the general support of the shipping lines as only one shipping line had agreed to sell the coupons for HKMOA.

29. Mr LAM went on to state the position of HKSC on the MSF. He emphasized that HKSC was of the view that any charges imposed by HKMOA for their service should be met by the shipping lines who were the signed contracts' counterpart. Should HKMOA consider it necessary to introduce a MSF, it should provide detailed account of its justifications and approach the shipping lines for the surcharge and not the shippers and consignees. However, in consideration of the wide public interest at stake, HKSC had agreed to take part in the negotiation process with a view to working out a mechanism for collection of the MSF through the shipping lines. While urging HKMOA to conform to the already established business practice in the industry, Mr LAM stressed that any new collection method should be acceptable to all parties concerned and should not incur additional cost on the part of the shippers. Moreover, an effective monitoring mechanism should also be put in place. Notwithstanding the

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aforsaid concerns, he assured members that HKSC would continue discussions with HKMOA and HKLSA with a view to bringing the whole matter to a satisfactory conclusion. When the new collection mechanism was ready, it would be up to individual members of HKSC to decide whether they would pay the MSF.

CHKJTC's concerns

30. Mr CHIANG Chi-wai of CHKTJC advised that the joint statement between the HKMOA and CHKTJC was a concession made by the trucking industry having regard to the importance of restoring the normal operation of the Hong Kong port. He stressed that the truck drivers were employed by the shippers to transport the containers and they did not have any contractual relationship with mid-stream operators. The drivers would co-operate and surrender the coupons to mid-stream operators if such were provided by the shippers. However, if the drivers did not have a coupon, mid-stream operators should not force them to buy the coupons at the gate or refuse to provide service as it would place the drivers in a very difficult position. While making an apology for the disruptions caused by the drivers' industrial action, he said that it was highly regretful that the drivers had to resort to drastic means every time to stop the unreasonable demands from mid-stream operators.

31. Mr WONG Charn-kwan of CHKTJC supplemented that the drivers had no alternative but to take strong actions to express their discontent because they were always kept in the dark and forced to accept the decisions made by the other parties. Hence, he suggested that whenever there was new development in the negotiation process, the drivers should be duly informed and consulted. As an example, Mr Simon LAU of CHKTJC said that CHKTJC had never been told that the new collection mechanism would not be ready for the next three months.

32. Mr CHIANG further said that since the publication of the joint statement, CHKTJC's command centre still received a few complaints from the drivers about un-cooperative actions taken by mid-stream operators. If other unreasonable demands were forced upon the truck drivers, he said that they would be ready to take industrial actions as appropriate. In this connection, Mr Ricky WONG of CHKTJC suggested that in order to avoid any further conflicts, the coupon system should be abolished as soon as possible and any new collection mechanism to be put in place should not involve the truck drivers.

Simultaneous imposition of MSF by mid-stream operators

33. Mr Fred LI referred to the simultaneous imposition of a \$40 MSF by mid-stream operators and asked whether this constituted an anti-competitive practice. In reply, Mr Kelly WONG explained that this surcharge was previously referred to as a service fee in the mid-stream industry and the level of charge would vary between individual mid-stream operators. In order to avoid causing confusion to the shipping lines and the shippers, mid-stream operators had initially come to an understanding that a uniform charge of \$50 should be levied. Taking into account different views from the concerned parties, the MSF was subsequently reduced to \$40. However, he

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drew members' attention to the fact this surcharge would only be levied on loaded containers moving inward and outward of Hong Kong.

Conclusion

34. DS(ES) advised that the Administration would continue to enhance the communication between parties on the issue of working out details of the collection mechanism. Moreover, in order to minimize disruptions caused to the public and maintain Hong Kong's reputation as the busiest container port in the world, he hoped that both HKMOA and CHKTJC would adhere to the joint statement.

35. While thanking the representatives for attending the meeting, the Chairman urged all parties concerned to co-operate with each other so that an alternative collection mechanism could be formulated within three months' time.

II Any other business

36. There being no other business, the meeting ended at 6:05 pm.

Legislative Council Secretariat

11 June 2001