

立法會
Legislative Council

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by the Administration)

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Legislative Council
Panel on Economic Services

Minutes of meeting held on
Monday, 26 March 2001, at 9:30 am
in the Chamber of the Legislative Council Building

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

Non-Panel members attending : Hon LEE Cheuk-yan
Hon NG Leung-sing
Hon CHAN Yuen-han
Hon LI Fung-ying, JP
Hon LEUNG Fu-wah, MH, JP

Members absent : Dr Hon LUI Ming-wah, JP (Deputy Chairman)
Dr Hon David LI Kwok-po, JP
Dr Hon Philip WONG Yu-hong
Hon LAU Chin-shek, JP
Hon Abraham SHEK Lai-him, JP

**Public officers
attending**

: Agenda Item IV

Economic Services Bureau

Ms Sandra LEE
Secretary for Economic Services

Ms Maria KWAN, JP
Deputy Secretary for Economic Services (1)

Miss Vega WONG
Principal Assistant Secretary for Economic Services (C)

Home Affairs Bureau

Mr Francis LO
Principal Assistant Secretary for Home Affairs

Electrical and Mechanical Services Department

Mr UY Tat-ping
Assistant Director/Gas & General Legislation

Mr John FLOYD
Chief Engineer/Gas Utilization

Agenda Item V

Economic Services Bureau

Ms Sandra LEE
Secretary for Economic Services

Mr Alex FONG
Deputy Secretary for Economic Services (3)

Ms Reddy NG
Senior Economist, Port and Maritime Board

**Attendance by
invitation**

: Agenda Item IV

Hong Kong and China Gas Co. Ltd.

Mr James KWAN
Director and General Manager -
Marketing & Customer Service

Mr LEE Hon-wan
Customer Services Manager

Agenda Item V

Hong Kong Mid-stream Operators Association

Mr James SHUEN Wai
Secretary

Mr Kelly WONG Kwok-ying
Treasurer

Hong Kong Liner Shipping Association

Mr Jim POON
Chairman

Mr Roberto GIANNETTA
Secretary

Hong Kong Shippers' Council

Mr Willy LIN
Chairman

Mr Jeffrey LAM
Vice Chairman

Mr Sunny HO
Executive Director

Hong Kong Textiles and Garments Seven Associations

Mr Alexander WOO Chung-ho
Chairman

Hong Kong Business Community Joint Conference

Mr CHAN Dit-lung
Convenor

Mr Simon SHI
Secretary

The China-Hong Kong Transportation Joint Conference

Mr Ricky WONG

Mr CHAN Fu-chuen

Mr CHIANG Chi-wai

Mr WONG Charn-kwan

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 Confirmation of minutes and matters arising

(LC Paper No. CB(1)584/00-01 - Minutes of special meeting held on 8 December 2000; and
LC Paper No. CB(1)882/00-01 - Minutes of special meeting held on 13 February 2001)

The minutes of the special meetings held on 8 December 2000 and 13 February 2001 were confirmed.

II Information papers issued since last meeting

(LC Paper No. CB(1)737/00-01 - Tables and graphs showing the import and retail prices of major oil products from February 1999 to January 2001)

2. Members noted the information paper issued since the last meeting.

III Items for discussion at the next meeting scheduled for 23 April 2001

(LC Paper No. CB(1)881/00-01(01) - List of outstanding items for discussion; and

LC Paper No. CB(1)881/00-01(02) - List of follow-up actions)

3. Members agreed to discuss the following items at the forthcoming meeting to be held on 23 April 2001:

- (a) Review of the Consumer Council Ordinance;
- (b) Re-organization of the Tourism Commission;
- (c) Infrastructure of Penny's Bay Development, Package 2; and
- (d) Review of air traffic control operations by the United Kingdom Civil Aviation Authority.

IV Maintenance and repair of gas service pipes along external walls of private premises

(LC Paper No. CB(1)646/00-01(06) - Information paper provided by the Administration)

4. At the invitation of the Chairman, the Principal Assistant Secretary for Economic Services (C) and the Director and General Manager - Marketing & Customer Service of the Hong Kong and China Gas Company Limited (D&GM/HKCG) briefed members on the responsibility for maintenance and repair of gas service pipes laid along the external walls of private premises (commonly known as gas risers), and the background, reasons and arrangement for HKCG's offer to building owners to transfer the ownership of their gas risers to the company in return for provision of free maintenance and replacement service as set out in LC Paper No. CB(1)646/00-01(06).

5. Noting that for private buildings to be supplied with Towngas, the developer usually appointed a registered gas contractor to install the gas supply system, including the gas risers, during the construction stage, the Chairman enquired whether there was any safeguarding mechanism in the legislation to prevent the developer from

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suppressing the contract price for the installation works in return for awarding a maintenance contract to the same contractor at high price.

6. The Principal Assistant Secretary for Home Affairs (PAS for HA) advised that the situation quoted by the Chairman, if existed, would be reflected in the Deed of Mutual Covenant (DMC). Since the terms and conditions of individual DMC varied from building to building, it would be difficult to make a general statement in this regard. But legally speaking, there was no specific provisions under the Building Management Ordinance (Cap. 344) to bar the developer from doing so.

7. Mr CHAN Kam-lam highlighted the problems faced by property owners in forming Owners' Corporations (OCs), and in transferring the title of their gas risers to HKCG as it would be difficult, if not impossible, to solicit the agreement from all flat owners. In considering the potential danger of improperly maintained gas risers, he urged the Government to provide the necessary assistance and to step up the related publicity campaign as some owners might not even be aware of the option offered by HKCG.

8. PAS for HA advised that the Home Affairs Department had been providing assistance to individual flat owners to form OCs and providing them with advice and information on effective building management. It was true that the majority of the buildings in Hong Kong did not have an OC yet and much remained to be done. However, the ownership of gas risers would depend on the terms and conditions of individual DMCs, and might not belong to OCs. The formation of OCs might not help much in the circumstances. Indeed, the transfer of gas risers would be dependent upon the consent of individual owners in accordance with the terms and conditions of DMCs. The Government's role in this respect was advisory.

9. Mr CHAN Kam-lam enquired whether HKCG was prepared to accept those gas risers which were installed by other registered gas contractors. D&GM/HKCG advised that it would be most desirable if individual flat owners or OCs could take up the maintenance responsibility of their gas risers. However, in case they encountered any difficulties in undertaking the related work, HKCG could offer building owners an option to transfer the title of their gas risers to the company in return for provision of free maintenance and replacement service. In the transfer agreement, HKCG would clearly specify the rights and obligations, say, for example, flat owners would be required to take reasonable steps to ensure that their gas risers were not improperly treated. So far, the company had taken over the maintenance responsibility for the gas risers of around 100 buildings.

10. Ms Audrey EU was concerned about the legal responsibility of small owners arising from the transfer of title of their gas risers to the company. She asked if it was possible for the building management office to issue a licence authorizing HKCG to carry out the related maintenance and replacement works without having the need to require flat owners to transfer the title of their gas risers to the company which would be quite difficult in most cases.

11. D&GM/HKCG advised that the company's principal businesses were the production, distribution and marketing of towngas and related activities. It was not the intention of the company to take over the ownership of gas risers of individual building premises. However, when requested by individual building management office or OC, the company could offer to provide an alternative for maintaining the integrity of the gas risers within their estates at no cost to them. He said that as a matter of principle, the company could only accept the maintenance responsibility for their own assets. If flat owners or management offices wished the company to take up the related maintenance responsibility without transferring the title of the gas risers to the company, they could consider offering a maintenance contract to the company instead.

12. Mrs Selina CHOW pointed out that in view of the potential danger of improperly maintained gas risers and the resulting safety implications, she opined that there was a need to address the problem at root. She enquired whether the Administration had ever considered the need to carry out a complete revamp of the existing policy governing the maintenance of the gas supply system, including the gas risers to ensure safety.

13. The Assistant Director of Electrical and Mechanical Services/Gas & General Legislation replied that under the Gas Safety (Registration of Gas Supply Companies) Regulations, it should be the duty of every registered gas supply company to, among other things, conduct its operations in a safe manner so that members of the public were not exposed to undue risks from gas. Accordingly, the HKCG was required to ensure, inter alia, the safety of the gas supply systems, and to take appropriate action to deal with all cases posing safety risks. The action required would depend on the nature and seriousness of the risks involved which might range from notifying the owners of minor routine maintenance works required to terminating gas supply to a defective system in the case of emergency.

14. D&GM/HKCG added that HKCG conducted regular inspections of gas risers to ensure safety. They would advise building owners or the estate management, in writing, of problems identified during those safety inspections and recommend appropriate remedial works. Depending on the degree of the problem, HKCG sometimes had to undertake remedial works for the sake of ensuring safety of gas supply and charge the owners the costs of performing those works afterwards. They also provided an emergency service in the event of gas leakages in which they either shut off supply to the gas risers in question, or made provisional repairs so as to temporarily resume supply.

15. The Deputy Secretary for Economic Services (1) advised that in considering whether HKCG should be asked to take up the maintenance responsibilities for all gas risers, members might need to consider whether this would be fair to those flat owners who had been keeping their gas risers in a good state and possible tariff implications arising from the extra costs so incurred. In response to Mr HUI Cheung-ching,

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D&GM/HKCG advised that the extra costs so incurred had yet to be worked out.

16. Mrs Selina CHOW opined that it was not appropriate to leave an important safety issue open by simply offering building owners an option to transfer the ownership of their gas risers to the company for subsequent maintenance. The Secretary for Economic Services (SES) advised that building safety and management fell outside the scope of her purview. To foster more responsible and proactive attitudes towards building safety and maintenance, she understood that the Buildings Department was examining the issue in details. The Chairman said that it would be more appropriate for the Home Affairs Panel to take up matters relating to the formation of OCs and to sort out the maintenance responsibilities for common fixtures of the buildings such as electricity cables, water and sewage pipes, and lifts, etc.

17. Given that HKCG was willing to take up the maintenance responsibilities for gas risers if the titles of the gas risers were transferred to the company, the Chairman remarked that the issue at stake was more related to the terms and conditions as stipulated in the DMCs governing the transfer of the titles of gas risers. He suggested members to follow up on the case in another forum.

V Mid-stream fee and related issues

- (LC Paper No. CB(1)881/00-01(03) - Information paper provided by the Administration;
- LC Paper No. CB(1)881/00-01(04) - Submission provided by the Federation of Hong Kong Industries;
- LC Paper No. CB(1)881/00-01(05) - Letter from the Hong Kong Business Community Joint Conference;
- LC Paper No. CB(1)881/00-01(06) - Submission provided by the Hong Kong Textiles and Garments Seven Associations;
- LC Paper No. CB(1)900/00-01(01) - Submission from the Hong Kong Mid-stream Operators Association; and
- LC Paper No. CB(1)900/00-01(02) - Joint statement made by the Hong Kong Business Community Joint Conference)

Background and purpose of the meeting

18. The Chairman reminded members that the subject on mid-stream fee (MSF) was last discussed at the meeting on 6 March 2001 amongst 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). Members noted that representatives of the Hong Kong Liner Shipping Association (HKLSA) had all along been involved in the negotiation process but were not available to attend the last meeting.

19. The Chairman informed members that subsequent to the last meeting held on

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6 March 2001, representatives of the Hong Kong Textiles and Garments Seven Associations (HKTGSA) and the Hong Kong Business Community Joint Conference (HKBCJC) had requested to appear before the Panel to present views on the subject matter. Against this background, he had instructed the Clerk to invite representatives of these two trade organizations to attend the meeting. Members noted that these two trade organizations were not members of the HKSC.

20. The Chairman invited members to note the written submission from the Federation of Hong Kong Industries, which was a member of the HKSC.

21. Mr CHAN Kam-lam opined that it was not appropriate for the Panel to conduct an arbitration proceeding and to judge whether a particular business entity was right or wrong. The Chairman clarified that the Panel had no intention to act as an arbitrator. However, in considering the wide public concern about the dispute between HKMOA and truck drivers, and taking into account the potential impact of port disruption on Hong Kong's economy, there was a need for the Panel to review the matter with the major stakeholders in the container freight industry with a view to resolving the matter among parties concerned. It was hoped that the meeting could provide a mediation forum to achieve the said purpose. The Chairman stressed that it was not the intention of the Panel to make a ruling on the case for compliance by the trade. Indeed, the parties concerned should continue to liaise with each other with a view to resolving the matter.

22. Mr Kelly WONG of HKMOA said that he was authorized to speak on behalf of all member organizations of HKMOA. He pointed out that with the assistance of the Economic Services Bureau, the Association had been discussing with HKSC and HKLSA on the development of a mechanism for collection of the MSF. Whilst the discussion with the trade organizations involved (i.e. HKSC and HKLSA) was still continuing, there came out some other new trade organizations which would like to take part in the process. Under such circumstances, it would be difficult to come up with a consensus amongst parties concerned. He therefore sought the Chairman's advice on how to deal with the situation.

23. The Chairman pointed out that despite the broad representation of the HKSC, and the fact that four of its member organizations were electors for the Commercial and Industrial Functional Constituencies of the Legislative Council, HKSC alone could not represent the entire population of mid-stream customers. Likewise, even if the mechanism for collection of the MSF were accepted by the attending shipper organizations, there was no guarantee that individual trade organization would accept the MSF in the end. However, in order to enable HKMOA to have a better understanding on the representativeness of the various organizations attending the meeting, the Chairman invited HKSC, HKTGSA and HKBCJC to introduce briefly the composition of their member organizations.

24. The Deputy Secretary for Economic Services (3) (DS/ES(3)) also explained the background leading to HKSC and HKLSA being involved in the negotiation

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process to help resolve the dispute between HKMOA and truck drivers over the mechanism for the collection of MSF. He said that the collection of terminal handling charges (THC) was an international practice. Under the existing THC mechanism, the major stakeholders in the industry including shippers, liner conference and terminal operators would exchange views on matters of mutual concern and resolve disputes through negotiation. Subsequent to the outburst of the dispute between HKMOA and truck drivers over the mechanism for the collection of MSF, the relevant trade associations (i.e. HKSC and HKLSA) had initiated dialogue with HKMOA to see if the dispute on MSF could be settled within the established mechanism for the collection of THC for the benefit of the entire port community at large.

25. Mr Jim POON of HKLSA also clarified that the majority of its 33 member organizations were not clients of mid-stream service. However, as the industrial unrest had greatly inconvenienced the entire port community at large, HKLSA had been actively participating in the negotiation process with a view to finding out a mutually agreeable solution among parties concerned. He also advised members that shipping lines engaging in mid-stream service did not have an alliance among themselves.

Justifications for the introduction of a MSF

26. Mr Kenneth TING queried the justifications for HKMOA to impose a MSF at this stage when deflation was recorded in the past two years.

27. Mr James SHUEN of HKMOA replied that over the past three years, the costs of mid-stream operation such as rentals and charges relating to barges, lighters and derricks had not come down. This coupled with the provision of value-added services as detailed in HKMOA's submission had necessitated the introduction of a MSF to recover part of the extra costs incurred. He also pointed out that it was common practice in the container freight industry that shippers were required to pay various forms of surcharges when calling at different port facilities for the purposes of picking up or setting down cargoes. For example, shippers were required to pay a vehicle parking fee when calling at Government public cargo working areas (PCWAs) (\$66 for the first hour or \$132 for a longer duration) or a vehicle entry fee when driving to the KCRC freight terminal at Hung Hom (\$40 or \$60 per vehicle). In considering the operating environment and taking into account the user-pay principle, HKMOA considered it necessary to impose a MSF on shippers. As a relief measure, the MSF was proposed to reduce from \$50 to \$40.

Views of HKBCJC

28. Mr CHAN Dit-lung of HKBCJC stated his objection for shippers and consignees to pay a MSF as they had already paid a THC to shipping lines specifically for the handling of cargoes between shore and ship. He stressed that should HKMOA consider it necessary to impose a MSF, the correct party for them to approach was the

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shipping lines who were their signed contracts' counterpart, and not the shippers and consignees who had no contractual relationship with mid-stream operators. He also cast doubt on the justifications put forward by HKMOA for introducing a MSF as no new services were made available to shippers and consignees.

29. Mr Simon SHI of HKBCJC said that the trade was already paying the highest THC in the world. For example, the THC levels in Hong Kong were already three to four times higher than those in Japan. He therefore queried the rationale for imposing an additional MSF under such circumstances and opined that manufacturers would embark on a large-scale relocation of their production lines to the Mainland as a result.

Views of HKTGSA

30. Mr Alexander WOO of HKTGSA referred members to the submission put forward by HKMOA and stated that the so-called "value-added" services such as the extension of operating hours from 8:00 pm to 11:00 pm, the provision of booking systems for collection of cargoes, and the deployment of traffic wardens to regulate traffic in the vicinity of mid-stream sites were essentially basic services which should have been provided by mid-stream operators. As such, they should not be regarded as new services in one way or another. Given that shippers had already paid a THC to shipping lines specifically for the purpose, there was no reason for HKMOA to impose a MSF on shippers. Should HKMOA consider it necessary to impose a MSF, they should approach the shipping lines who were their signed contracts' counterpart but not the shippers and consignees who had no contractual relationship with them.

Views of HKSC

31. Mr Willy LIN of HKSC stated that HKSC was also of the view that as shippers and consignees had already paid a THC for the handling of cargoes between shore and ship, there was no reasonable grounds for HKMOA to impose an additional MSF on shippers and consignees on top of the THC as no new services were provided. There was also no way to verify the cost components associated with the provision of the so-called "value-added" services as provided by mid-stream operators. However, with the public interest being at stake, HKSC 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. He also urged HKMOA to make detailed account of the justifications for introducing a MSF and honour the established mechanism in the industry for the collection of THC.

Views of CHKTJC

32. Mr CHIANG Chi-wai of CHKTJC expressed serious concern that the parties concerned had not reached an agreement over the mechanism for collection of the MSF. He urged the parties involved to resolve the dispute. If truck drivers were required to pay the MSF in one way or another, they would have no choice but to take industrial actions accordingly.

Mechanism for collection of the MSF

33. Whilst appreciating that HKMOA might be facing a difficult operating environment, members queried the rationale for requiring shippers to bear the MSF. They pointed out that as shippers had no direct contractual relationship with mid-stream operators, they asked if HKMOA had ever considered requesting their signed contracts' counterparts (i.e. shipping lines) to absorb the MSF instead.

34. In response, Mr Kelly WONG and Mr James SHUEN of HKMOA provided the following information:

- (a) THC was a mutual agreement reached by shippers and shipping lines after rounds of discussion in which mid-stream operators had never been involved. The value-added services provided by mid-stream operators also fell outside the scope of the service agreements signed between mid-stream operators and shipping lines for transporting cargoes from ship to shore or vice versa;
- (b) whilst individual shipping lines engaging in mid-stream service had been contacted, it had all along been the intention of HKMOA to impose the MSF on shippers but not truck drivers as it was common practice in the container freight industry that shippers were required to pay various forms of surcharges as set out in paragraph 27 above;
- (c) since shipping lines were free to choose any service providers, other than mid-stream operators, for the handling of cargoes, the deviation from the industry practice by charging shipping lines instead of shippers for the proposed MSF would inevitably place mid-stream operators in an unfavourable and unfair position. If shipping lines were required to pay the MSF, they would switch to other service providers which did not charge them for such a fee as was the case in KCRC and Government PCWAs.

35. SES clarified that the decision to impose a MSF on shippers was purely a commercial decision of HKMOA and the Government did not take a position on the issue.

36. In response to members' questions as to which party was currently responsible for paying the parking fee/entry fee imposed by the Government and KCRC at PCWAs and freight terminal respectively, Mr CHAN Dit-lung of HKBCJC responded that shippers only paid a single THC to cover all costs relating to the handling of cargoes and individual shipping lines might choose to make use of the mid-stream service to reduce their costs. Mr Willy LIN of HKSC said that whilst the said parking fees and entry fees were borne by shippers, there was a fundamental difference between the freight operations at mid-stream sites and PCWAs/freight

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terminal, and hence, the latter's operation did not affect the competitiveness of the former. Mr Alexander WOO of HKTGSA also stated that it was not appropriate for HKMOA to cite the charges imposed by the Government and KCRC at PCWAs and freight terminal so as to justify their proposed introduction of MSF, bearing in mind the fundamental difference between Government fees and service fees imposed by private operators.

37. Mr James SHUEN of HKMOA remarked that individual members of HKMOA had indeed expressed concern about the need to consult all their potential clients before determining the mechanism for collection of the MSF. In their opinion, as the mid-stream sites were open for business, it was up to individual clients to determine whether they would like to make use of the mid-stream services. If so, they should honour the fees imposed by the operators.

38. Mr CHAN Dit-lung of HKBCJC said that the choice of terminal operators was a matter for shipping lines to decide. Shippers had no say in the process and they just forwarded or picked up the goods at selected locations as directed by shipping lines. Mr Alexander WOO of HKTGSA added that it was unfair to say that shippers could switch to other terminal operators if they were not willing to pay the MSF. After all, mid-stream services had to be used if ships were not moored at piers.

39. Mr Jim POON of HKLSA also clarified that mid-stream and container terminals were two different types of operations, and hence, the handling charges received from shipping lines were also different.

Land grant conditions of mid-stream sites

40. Members noted that for mid-stream sites, with the exception of the two permanent sites on Stonecutters Island, most of them were either private wharfs or sites let out under Short-Term Tenancy (STT). The lease conditions did not contain any clause which allowed the Government to impose regulation on pricing of mid-stream service.

41. In response to Mr Kenneth TING, Mr James SHUEN of HKMOA said that the annual throughput of the two permanent mid-stream sites on Stonecutters Island was around 600 000 TEUs and the remaining mid-stream sites was 2.4 million TEUs.

42. The Chairman enquired whether consideration would be given to including suitable provisions for regulating the pricing of mid-stream service when the respective STT agreements were renewed. DS/ES(3) advised that the proposal had deviated from the well-established policy and the Administration saw no justification for introducing such a change.

43. Mr SIN Chung-kai said that as the incident had arouse wide public concern and led to serious traffic disruption and damage to Hong Kong's economy, the Administration should consider imposing suitable conditions in the land grants to

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prevent the recurrence of similar incidents. He felt dissatisfied that the Administration was still adhering to the long standing policy without considering the implications of the present incident. He disagreed with the Administration's stance and suggested they should include a new clause upon renewal of STT agreements so as to empower the Government to impose regulation on pricing of mid-stream service or to resume the sites if the mid-stream operation had led to social unrest.

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44. Mr SIN also said that he had requested the Administration to provide information on the land grant conditions of the mid-stream sites when the subject matter was first discussed at the meeting in February 2001. He was disappointed that not much information had been provided in the paper. He requested the Administration to provide further information on the number of mid-stream sites let out under STT, their respective sizes and expiry dates, and the number of lease holders involved.

45. Mr CHAN Kam-lam indicated that he could not accept the proposal for the Government to introduce measures to regulate the pricing of the industry. In his view, it would affect the economy of Hong Kong and also dampen Hong Kong's reputation as a free trade economy. He also pointed out that as the incident was purely a business dispute, the Government should not be empowered to resume the mid-stream sites let out under STT even if the activities there had led to industrial actions in the end.

46. SES took note of Mr SIN's request and replied that she would liaise with the Lands Department on members' request. But given the number of leases, it might take some time to collate the information.

Simultaneous imposition of a service fee by mid-stream operators

47. Referring to the simultaneous imposition of a service fee by mid-stream operators, Mr Fred LI enquired whether this constituted an anti-competitive practice. Mr James SHUEN of HKMOA said that the MSF charged by individual mid-stream operators varied from \$63 to \$102 per container, depending on the actual cost components. The \$40 MSF was only proposed for reference by their members in determining their own charges. Individual mid-stream operators would, in light of their own circumstances, make their own commercial decisions as necessary.

48. Mr Fred LI pointed out that as the face value of a MSF coupon was \$40, he queried the statement made by Mr SHUEN that the \$40 MSF was only proposed for reference by their members in determining their own charges.

49. Mr James SHUEN of HKMOA responded that the coupon system was found to be not workable. At present, HKMOA was working on a new mechanism for collection of the MSF by an electronic means but there was still dispute between HKSC and HKMOA regarding the operation of the new mechanism.

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50. Mr Willy LIN of HKSC said that HKSC had never agreed the implementation of the MSF coupon system and it was only a unilateral decision of HKMOA.

Competition in the market

51. Mr LEUNG Fu-wah enquired whether the container freight industry was monopolized by certain operators. SES replied that there was keen competition in the market and concerns had been raised by different operators in the industry about the difficult operating environment which they faced.

52. Mr CHAN Kam-lam opined that as the pricing of container terminals and mid-stream sites varied, the choice of operators by different shipping lines was purely a commercial decision. Indeed, issues relating to the imposition of MSF and the mechanism for collection should be settled among the stakeholders in the industry. He emphasized that it was inappropriate for a particular player to assume that its action plan had the support of the community, and the Legislative Council and hence, did not take a co-operative approach in the course of negotiation. He urged the parties concerned to adopt a sincere and pragmatic approach to negotiate with each other with a view to resolving the issue for the benefit of the community.

53. DS/ES(3) advised that since the last meeting on 6 March 2001, the trade associations involved, i.e. HKSC, HKLSA and HKMOA had held meetings to discuss matters relating to the development of a mechanism for collection of the MSF. The discussion was still continuing.

54. Miss CHAN Yuen-han opined that shippers and HKMOA were basically business partners, i.e. shippers needed mid-stream operators to carry their goods and mid-stream operators' main stake of revenue was the THC from the handling of cargoes for shippers. She urged both sides to negotiate with each other with a view to resolving the issue. She also called on HKMOA to withhold charging the MSF until a mechanism for collection was established with the agreement of all parties concerned.

55. Mr James SHUEN of HKMOA said that HKMOA had been liaising with HKSC with a view to sorting out (a) the exact amount of MSF to be paid; (b) the mechanism for collection of the MSF; and (c) the timing for collection of the MSF. There were divergent views between HKSC and HKMOA over the mechanism for the collection of MSF. HKSC insisted that the MSF should be collected through shipping lines whereas HKMOA considered this not practicable as it would affect the competitiveness of mid-stream operators. Without a common basis, the negotiation could hardly proceed further.

56. Miss CHAN Yuen-han pointed out that the Government should take active steps to resolve the matter as the industry employed a few thousand workers, and the closure of the mid-stream operations would not be beneficial to the community. She also remarked that whilst she was not suggesting the Administration to intervene in

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business operation, it should not leave the matter entirely to the industry. The Administration should examine whether mid-stream operation was viable and take active steps to assist the industry in resolving the matter. The Chairman remarked that as the STT agreements did not empower Government to impose regulation on the pricing of mid-stream operations, the Administration had to work within the present constraints. In this respect, the Chairman considered that the Administration was already making an active effort to mediate with the parties concerned.

57. In response to Miss CHAN Yuen-han, DS/ES(3) said that it was unfair to say that the Administration had not taken active steps to resolve the matter. Over the past few months, the Administration was trying every effort to mediate among parties concerned with a view to resolving the matter. However, as the issue was fundamentally a business dispute, the Government had to maintain its neutrality at all times and could only act as a facilitator to enhance communication among different sides. He stressed that the Administration was equally concerned about the impact of the incident on port operation and was making every effort to encourage all parties to resolve their differences through continuing dialogue. But it had not been easy for the parties concerned to work out a mutually agreeable solution.

58. SES also remarked that over the past few months, her colleagues had been actively liaising with the parties concerned. She assured members that the Government was attaching great importance to the issue. DS/ES(3) had been working almost round the clock during the incident. She would welcome members' specific suggestions on how to resolve the issue promptly.

59. Mr HUI Cheung-ching enquired whether the Government would formulate an arbitration mechanism to resolve the matter. DS/ES(3) advised that the proposal had been considered by the parties concerned but they had concluded that it was not necessary.

60. Mrs Miriam LAU highlighted the contribution and importance of mid-stream operation to the competitiveness of Hong Kong port as it provided an alternative mode of port operation at low cost. She urged the parties concerned to adopt a pragmatic approach to resolve the dispute over the \$40 MSF. She was disappointed to learn that the discussion on the collection of MSF by an electronic means seemed to have come to an end.

61. In response to Mrs Miriam LAU, Mr WONG of CHKTJC explained the operation of the container truck industry. He said that truckers were normally remunerated on a job by job basis. They would pay all the related expenses en-route and asked shippers to reimburse the same to them after the service. But this time, as shippers had already indicated that they would not bear the MSF imposed by mid-stream operators, truck drivers were worried that they had to bear the costs eventually. SES remarked that the parties involved had promised that truck drivers would not be required to bear the MSF in any cases.

Action

62. Mr CHAN Fu-chuen of CHKTJC said that around 40 drivers/trucker companies had received injunction orders from mid-stream operators. If prosecutions were initiated later on, it would give rise to a new crisis. He hoped the Government could take appropriate actions to resolve the matter.

63. The Chairman thanked all parties concerned for attending the meeting. He hoped they could adopt a sincere approach to discuss with each other with a view to resolving the matter.

VI Terminal handling charges and related issues

(LC Paper No. CB(1)881/00-01(03) - Information paper provided by the Administration; and
LC Paper No. CB(1)799/00-01 - Letter from the Chairman of the Shippers' Council on "Competitiveness of the Hong Kong Port")

64. In view of time constraint, the Chairman suggested and members agreed to defer the discussion on THC and related issues to a special meeting to be scheduled.

(Post-meeting note: The special meeting was scheduled for Monday, 9 April 2001, at 2:30 pm in the Chamber of the LegCo Building.)

VII Any other business

65. There being no other business, the meeting ended at 12:30 pm.

Legislative Council Secretariat

14 May 2001