

NOTE FOR FINANCE COMMITTEE

Termination of Guarantee Provided to the Airport Authority and its Related Service Providers

PURPOSE

This paper informs Members of the termination of the guarantee for indemnity provided by the Government to the Airport Authority (AA), and, through AA, to its related service providers.

BACKGROUND

2. Aviation insurers worldwide had given notice to airlines, airport operators and related service providers that third party liability coverage in the case of war, hijacking and other perils would be reduced drastically or totally withdrawn with effect from 23.59 hours GMT on 24 September 2001 (07.59 hours on 25 September, HK time).

3. At the Finance Committee meeting held on 24 September 2001, Members gave approval for the Government to provide guarantees to indemnify Hong Kong-based airlines, AA and, through AA, its related service providers, for third party liabilities arising from war, hijacking and other perils for a period of one month commencing 0000 hours GMT on 25 September 2001 subject to certain principles being followed.

4. In the evening of 24 September 2001, the three Hong Kong-based airlines (Cathay Pacific Airways, Hong Kong Dragon Airlines and Air Hong Kong) managed to obtain commercial third party war-risk related insurance coverage for themselves and their three subsidiary service providers at the Hong Kong International Airport (HKIA) viz Hong Kong Airport Services Ltd, Cathay Pacific Catering Services and Hong Kong International Airport Services. As a result, the Government's guarantee for indemnity was only provided to the AA, and through the AA, to 14 related service providers.

/INDEMNITY

INDEMNITY AGREEMENT

5. The Government signed an Indemnity Agreement (“the Agreement”) with AA on 25 September 2001. The Agreement provides, amongst other things, that the Government shall indemnify AA from and against any claim which AA may become liable to pay for any third party bodily injury or property damage resulting from the occurrence of any events arising from war, hijacking and other perils up to the maximum amount of insurance coverage withdrawn by aviation insurers under AA’s original insurance policy, i.e. US\$1.25 billion (HK\$9.75 billion) per occurrence. Under the Agreement, the Government also agrees to indemnify AA from and against any payment made by AA as a result of similar indemnity guarantees given by AA to 14 related service providers up to a maximum per occurrence of 50% of the insurance coverage withdrawn by aviation insurers under the service providers’ original insurance policy. A list of the 14 service providers and the insurance coverage that had been withdrawn under their original insurance policy is at Annex.

Annex

6. The Agreement also contains the following major provisions -
- (a) AA undertakes to use its best endeavours to effect insurance in the insurance market and shall provide such information as the Government may require. It will also ensure that the information provided by the service providers is true and accurate;
 - (b) AA agrees to pay to the Government a fee which shall be the market premium rate;
 - (c) provisions of the Agreement may be terminated or varied by the Government by giving seven days’ notice to AA;
 - (d) AA will not settle any claim without the Government’s prior consent;
 - (e) AA must do everything reasonably necessary to claim and obtain payment of any insurance moneys to which it is entitled in respect of a claim and must apply any insurance moneys received towards the claim;
 - (f) the indemnities do not apply where any claim was caused by grossly negligent, fraudulent or unlawful act or omission of AA, including the failure to comply with current industry standards or standards specified in any insurance policy held from time to time by AA; and

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- (g) when providing indemnity guarantee to related service providers, AA shall follow substantially the same terms as the indemnity guarantee provided by the Government to AA.

7. On 11 October 2001, AA announced that it had put in place commercial insurance coverage in respect of third party liabilities from war, hijacking, terrorists and other risks to ensure the continued operation of the HKIA. It also notified the Government that it would not require the Government's guarantee for indemnity in respect of AA itself when the commercial insurance coverage commenced at 23:59 hours GMT on 9 October 2001. As a result, we terminated that part of the Government's indemnity guarantee to AA with effect from the same time and date. The 14 service providers have also arranged commercial insurance coverage before the expiry of the one-month guarantee at 23:59 hours GMT on 24 October 2001 and do not require AA's guarantee for indemnity. Hence, the indemnity guarantee provided by the Government through AA to service providers also ends.

FEE

8. In accordance with the Indemnity Agreement, we have been monitoring market development with a view to establishing a fee that we should charge AA for the Government's guarantee for indemnity covering both AA and through AA, its service providers. We are now working out this fee, with reference to the market premium rate and the duration of the guarantee provided by the Government. During the Indemnity Agreement period, AA has not made any claim against the Government.

Economic Services Bureau
Finance Bureau
October 2001

Service Providers and Original Insurance Coverage Withdrawn

Service Provider	Original Insurance Coverage Withdrawn
AFSC Refuelling and AFSC Operations (Fuel Storage)	US\$1,000M
Worldwide Flight Services Fuelling	US\$500M
Jardine Air Terminal Services Ltd (JATS) (Ramp Handling)	US\$750M
Menzies (Ramp Handling)	US\$800M
Asia Airfreight Terminal Ltd (AAT)	US\$1,000M
Hong Kong Air Cargo Terminal Ltd (HACTL)	US\$1,000M
Hong Kong Business Aviation Centre (Business and Private Planes)	US\$500M
Lufthansa Services Hong Kong Ltd (LSG) (Catering Services)	US\$150M
Gate Gourmet Hong Kong Ltd (Catering Services)	US\$150M
Hong Kong Aircraft Engineering Co Ltd (HAECO) (Line Maintenance)	US\$1,000M
China Aircraft Services Ltd (CASL) (Line Maintenance)	US\$500M
Pan-Asia Pacific Aviation Services Ltd (PAPAS) (Line Maintenance)	US\$500M
Securair (Security Company)	US\$500M
Jardine Airport Services Ltd (JASL)	US\$62.5M