

立法會  
*Legislative Council*

LC Paper No. CB(1)936/02-03  
(These minutes have been seen  
by the Administration)

Ref: CB1/PL/ES/1

**Panel on Economic Services**

**Minutes of meeting held on  
Monday, 27 January 2003, at 10:45 am  
in the Chamber of the Legislative Council Building**

**Members present** : Hon James TIEN Pei-chun, GBS, JP (Chairman)  
Dr Hon LUI Ming-wah, JP (Deputy Chairman)  
Hon Kenneth TING Woo-shou, JP  
Hon Eric LI Ka-cheung, JP  
Hon Mrs Selina CHOW LIANG Shuk-yee, GBS, JP  
Hon HUI Cheung-ching, JP  
Hon CHAN Kam-lam, JP  
Hon SIN Chung-kai  
Dr Hon Philip WONG Yu-hong  
Hon Jasper TSANG Yok-sing, GBS, JP  
Hon Howard YOUNG, JP  
Hon LAU Chin-shek, JP  
Hon Miriam LAU Kin-yee, JP  
Hon CHOY So-yuk  
Hon Abraham SHEK Lai-him, JP  
Hon Henry WU King-cheong, BBS, JP  
Hon LEUNG Fu-wah, MH, JP

**Non-Panel Member** : Hon WONG Yung-kan  
**attending**

**Members absent** : Dr Hon David LI Kwok-po, GBS, JP  
Hon Fred LI Wah-ming, JP  
Hon CHEUNG Man-kwong

**Public officers attending** : **Agenda items IV and V**

Economic Development and Labour Bureau

Ms Sandra LEE  
Permanent Secretary for Economic Development and Labour (Economic Development)

Mr Raymond FAN  
Deputy Secretary for Economic Development and Labour (Economic Development)

Marine Department

Mr S Y TSUI  
Director of Marine

Mr K M LEE  
Assistant Director of Marine (Port Control)

Mr S K ANAND  
Assistant Director of Marine (Shipping)

Mr Michael K F LEE  
General Manager of Marine (Local Vessels Safety)

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

**Staff in attendance** : Miss Anita HO  
Assistant Legal Adviser 2

Ms Debbie YAU  
Senior Assistant Secretary (1)1

Miss Winnie CHENG  
Legislative Assistant 5

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Action

- I Confirmation of minutes and matters arising**  
(LC Paper No. CB(1)658/02-03 - Minutes of meeting held on 25 November 2002; and  
LC Paper No. CB(1)770/02-03 - Minutes of meeting held on 10 December 2002)

The minutes of the meetings on 25 November 2002 and 10 December 2002

were confirmed.

## **II Information papers issued since last meeting**

(LC Paper No. CB(1)529/02-03(01) - Information paper on Pilotage Ordinance (Cap. 84), Pilotage (Dues) (Amendment) Order 2002 provided by the Administration; and

LC Paper No. CB(1)618/02-03(01) - Tables and graphs showing the import and retail prices of major oil products from December 2000 to November 2002 furnished by the Census and Statistics Department)

2. Members noted the above information papers issued since last meeting.

## **III Items for discussion at the next meeting scheduled for 24 February 2003**

(LC Paper No. CB(1)764/02-03(01) - List of outstanding items for discussion; and

LC Paper No. CB(1)764/02-03(02) - List of follow-up actions)

3. Members agreed to discuss the following items as suggested by the Administration at the next meeting to be held on 24 February 2003:

(a) Merchant Shipping (Liability and Compensation for Oil Pollution) (Amendment) Bill; and

(b) Update on Hong Kong Disneyland

(Post-meeting note: The Administration had proposed to defer the discussion of item (b) to a later meeting and replace the item by Merchant Shipping (Local Vessels) (Compulsory Third Party Risks Insurance) Regulation)

4. The Chairman proposed to invite the Administration to brief members on the work of the Hong Kong Logistics Development Council, including, inter alia, the proposed value-added logistics park on Lantau Island and the Digital Trade and Transportation Network System at the next meeting. The Clerk was instructed to follow up with the Administration.

5. Referring to a previous funding proposal in respect of the site investigation and detailed design for the planned waterfront facilities and reclamation at Kwun Tong typhoon shelter considered by the Finance Committee in July 2002, Mr LEUNG Fu-wah sought information on the latest development of the funding proposal and whether the slippage in the funding approval process would have any implications on the development of the proposed modern cruise terminal at Southeast Kowloon. Members agreed to invite the Administration to brief members on the development of

the modern cruise terminal in due course.

**IV Subsidiary Legislation under Merchant Shipping (Local Vessels) Ordinance (Cap. 548) and Shipping and Port Control Ordinance (Cap. 313)**

(LC Paper No. CB(1)764/02-03(03) - Information paper provided by the Administration)

6. At the invitation of the Chairman, the Director of Marine (D of M) introduced the Administration's paper.

Merchant Shipping (Local Vessels) (Compulsory Third Party Risks Insurance) Regulation ("LV(CTPRI)R")

7. The Chairman queried the justification for revising the amount of third party risks insurance cover for pleasure vessels used solely for private pleasure purpose. He enquired about the rate of marine accidents involving this type of vessels.

8. D of M and the Assistant Director of Marine (Port Control) (AD of M(PC)) explained that the existing minimum amount of third party risks insurance was \$0.6 million for pleasure vessels and \$3 million for launches and ferries. Under the proposed legislation, the minimum cover would be increased to \$5 million for local vessels carrying not more than 12 passengers and to \$10 million for local vessels carrying more than 12 passengers. AD of M(PC) pointed out that the existing minimum third party risks insurance cover was drawn up in 1984/85 and had not been revised since then. The increase in minimum cover would better protect passengers and third parties injured in marine incidents. He further said that the premium should not increase proportionately with the increase in the minimum cover, and the adjustment level should be affordable to local vessel owners.

9. Ms Miriam LAU was unconvinced of the Administration's reply. She said that as a result of the proposed compulsory insurance requirements, the vessel owners/operators concerned would have no choice but to accept a higher premium as determined by insurance companies at will.

10. Mrs Selina CHOW echoed the view of Ms LAU and remarked that there was no strong justification for increasing the minimum cover simply on the ground that it had not been revised since 1984/85. Indeed, extension of the compulsory insurance requirements to all local vessels would reduce the bargaining power of the insuring public. For some types of compulsory insurance, either the insurance premium was set at unreasonably high levels or the insuring public had to face with difficulty in obtaining insurance coverage. She enquired about the details and outcomes of consultation with the local shipping industry.

11. AD of M (PC) replied that the Administration had consulted the relevant industries and interested parties including the Provisional Local Vessel Advisory Committee which comprised representatives from the fishing industry, marine

insurance industry, pleasure boat operations and other vessels operations, etc. At present, the premium of a minimum cover of \$0.6 million for pleasure vessel was about \$1,000. According to the insurance sector, the premium would be adjusted to \$2,000 to \$20,000 if the minimum cover was raised to \$5 million. The actual premium would be determined by market force. At present, most pleasure vessel owners had chosen to take out an insurance cover higher than the minimum liability amount. Some vessel owners had even taken out unlimited insurance cover for their vessels.

12. Mr Kenneth TING was disappointed at the Administration's proposal. Given the low rate of marine accidents with injuries involving pleasure vessels, he opined that the minimum cover should remain unchanged or even be lowered to provide a conducive business environment for pleasure vessel operators.

13. Mr WONG Yung-kan opined that the premium for the proposed third party risks insurance might be beyond the affordability of the owners of small vessels. He relayed the concern of the fishing industry that the minimum liability amount for fishing vessels should be lowered to \$1 million - \$3 million.

14. As local vessel owners would normally take out a higher insurance cover than the statutory requirement, Mr CHAN Kam-lam urged the Administration to consider lowering the minimum liability amount to say \$3 million given the prevailing economic conditions. He considered that in order to justify the Administration's proposal, it should provide further information on statistics of marine accidents in recent years. Mr HUI Cheung-ching also considered it necessary for the Administration to justify its proposal by providing information on the amount of award for personal injuries and death due to marine accidents as determined by the courts in the past five years. While appreciating the need to update relevant legislation from time to time, Dr LUI Ming-wah considered that the Administration had not provided sufficient information to justify its present proposal, and hence, he could not support the proposal.

15. AD of M(PC) said that the insurance sector had refused to disclose the amount of compensation to the Administration. He stressed that the Administration had consulted the local shipping industry and divergent views were received on the amount of the required coverage. The present proposal maintained a balance, taking into account the views expressed by the industry.

16. Mr Kenneth TING considered that the amount of the required coverage should be drawn up on the basis of the engine size of vessels but not the number of passengers carried by vessels. He pointed out that high speed vessels such as speedboats, catamarans, jetfoils etc were more prone to accidents than low speed vessels. The Chairman echoed Mr TING's view and added that the minimum coverage might be set according to speed limit and types of vessels. Ms Miriam LAU also advocated for a distinction between passenger vessels and cargo vessels.

17. AD of M(PC) replied that in drawing up the proposal, the Administration had considered using other factors such as speed limits and types of vessels for

determining the amount of minimum cover. However, given the many different types of local vessels involved, the proposal was considered not practicable. Citing the marine accident caused by a Class P4 (Miscellaneous Craft carrying not more than 4 persons) which took place at Tung Chung Bay in which 4 persons were killed as an example, AD of M(PC) said that the \$5 million minimum cover might be insufficient when an accident happened. He stressed that the present proposal was based on the views of the shipping industry and represented the minimum level of protection that they should have.

18. Ms Miriam LAU sought clarification on the types of vessels which would be exempted from the proposed extension of compulsory third party risks insurance requirement. AD of M(PC) replied that laid-up vessels, dwelling boats and small non-mechanically propelled vessels were exempted from the proposed legislation.

19. Mr CHAN Kam-lam was concerned that whilst some small vessels such as sampans were mechanically propelled, they were unlikely to cause injury to third party on any other vessels, and hence, they should be exempted from the proposed extension of compulsory third party risks insurance requirement. He called on the Administration to consider further sub-classifying the local vessels so as to save the need for owners of small local vessels to take out unnecessary insurance. AD of M(PC) undertook to consider sub-classifying the local vessels as suggested by the member.

#### *Labour insurance*

20. As vessel owners were already required to take out labour insurance cover for coxswain and crew members, Ms Miriam LAU and Mrs Selina CHOW were concerned about the need for vessel owners to take out third party risks insurance cover for them under the proposed legislation. These would inevitably increase the cost of operation and create unnecessary burden to vessel owners. Dr LUI Ming-wah shared their view and remarked that the proposal would adversely affect the business environment.

21. In response, AD of M(PC) said that in case the labour insurance cover was insufficient to meet the claims arising from injuries and death during marine accidents, the third party risks insurance cover could meet the shortfall and provide extra protection to coxswain, crew members and their families.

#### *Approved insurers*

22. Members noted that under the existing legislation, any insurer authorized to carry on class 12 of general business (liability for ships) under the Insurance Companies Ordinance (Cap. 41) (ICO), and any protection and indemnity (P&I) associations approved by the D of M might provide third party risks insurance to local vessels. Mr Henry WU queried why insurers for local vessels were not confined to the list of approved insurers under ICO.

23. In response, D of M and AD of M(PC) informed members that it was a long-

standing practice for the shipping industry to use P&I clubs as insurers. The liability covers provided by P&I clubs were in fact contributed by the owners of the vessels in the form of membership fees. Some launches and ferries in Hong Kong were members of some P&I clubs. As P&I clubs would not provide other types of insurance and issue insurance certificates, they did not satisfy the conditions to be included in the list of approved insurers under the ICO. D of M would only approve those P&I clubs that were financially sound and internationally renowned upon consultation with the Office of the Commissioner of Insurance.

*River Trade Vessels (RTVs)*

24. Ms Miriam LAU enquired whether RTVs were subject to the same compulsory third party risks insurance requirement as local vessels. D of M and AD of M(PC) replied that whilst the proposed legislation did not specifically cover RTVs, they were required to comply with the same requirement by means of administrative measures. Under existing legislation, all RTVs were required to tender to the Marine Department a pre-arrival notice (PAN), which should include a valid certificate of insurance.

25. Both Ms Miriam LAU and Mrs Selina CHOW objected to the Administration's proposal to rely on administrative means to enforce the compulsory third party risks insurance requirement for RTVs. They opined that appropriate legislation should be put in place to facilitate compliance and enforcement.

26. Noting that the compulsory third party risks insurance requirement only covered injury or death of Hong Kong people and not properties involved in marine accidents, Ms Miriam LAU was gravely concerned that the new requirement could not adequately address the existing problems of RTVs colliding with local vessels and berths, resulting in damages to properties. Mr WONG Yung-kan reflected that it was very difficult for owners of local fishing vessels to claim damages from RTV owners during marine accidents. Given there were several thousands of RTVs passing through Hong Kong waters daily, Mr WONG urged the Administration to work in collaboration with the marine authorities in the Mainland and monitor RTVs, in particular those RTVs engaging in illegal activities, in order to strengthen the protection of Hong Kong fishermen and crew members.

27. AD of M(PC) highlighted that RTVs were not licensed vessels of Hong Kong and therefore, could not be subject to the prescribed requirements for compulsory third party risk insurance under the legislation. Notwithstanding this, the same degree of protection could be achieved through administrative means. As a prerequisite for entry, RTV owners would be required to present a valid certificate of insurance upon arrival in Hong Kong waters. To facilitate recovering of damages from affected parties in case accidents happened, the Administration would only accept those insurers with correspondence office in Hong Kong. The insurers would also be required to place a deposit with the Marine Department for meeting claims in the amount of insurance covers for two incidents. AD of M(PC) remarked that the Administration would continue to refine the legislation with a view to extending its scope to cover damages for properties in addition to personal injuries and death.

28. Unconvinced of the Administration's reply, Mrs Selina CHOW considered that it was unacceptable to enforce the prescribed requirements for compulsory third party risks insurance for RTVs via administrative means. It was matter of principle that both local vessels and RTVs should be subject to the same degree of regulation under the laws.

29. Mr CHAN Kam-lam said that in order to justify its proposal, the Administration should provide further information to facilitate members' understanding of the operation of the industry. There was a need to provide a breakdown on marine incidents in recent years. He also remarked that all vessels including RTVs were indeed covered by insurance. He was not aware of any cases whereby the injured parties could not recover damages from RTV owners through their respective insurers. Ms Miriam LAU however remarked that concerns had been raised by the local shipping industry to strengthen control over RTVs and introduce measures to facilitate local vessel owners to claim damages from RTV owners. She was disappointed to note that the present proposal did not address the concerns of the trade. She requested the Administration to provide further information on insurance coverage of RTVs and whether the insurance coverage was applicable within Hong Kong waters.

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#### *Way forward*

30. In summary, the Chairman requested and the Permanent Secretary for Economic Development and Labour (Economic Development) (PSEDL(ED)) agreed to provide additional information on the names of bodies consulted and the results of consultation, the number and types of marine accidents and the indemnities, if any, involved in recent years and the details on insurance requirement for RTVs. The Panel would consider LV(CTPRI)R again after the said information was made available to the Panel.

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#### Merchant Shipping (Local Vessels) (Fees) Regulation ("LV(F)R")

31. In the light of a downward adjustment of administrative cost, Mr HUI Cheung-ching queried why it was necessary to adjust some of the fee items applicable to local vessels under the LV(F)R upward. Noting that most fee increases only affected new vessels, he was concerned that this might contravene the Administration's efforts in strengthening Hong Kong as an international shipping centre as advocated in the Policy Address 2003.

32. In response, PSEDL(ED) pointed out that the primary objective of LV(F)R was to consolidate, simplify and rationalize the fee structure applicable to local vessels. Based on the principle of being "revenue neutral", the impact of the fee increase for an item would be offset by the fee reduction for another item. She said that the introduction of LV(F)R would render the overall fee structure more user-friendly by reducing the total number of fee items from 324 to 198. The streamlined system would help save the manpower resources in the long run. It would not affect the Administration's policy to promote the services of the Hong Kong Shipping Register and to promote Hong Kong as a major international shipping centre because the



present proposal concerned local vessels only.

*Fees for the survey of vessels and the examination of their plans*

33. Mr CHAN Kam-lam enquired why some new cargo vessels which carried dangerous goods would pay lower fees for plan examination. He also queried about the need for the Marine Department to conduct a biennial inspection for non-mechanised stationary vessels.

34. In reply, D of M and the General Manager of Marine (Local Vessels Safety) (GM of M(LVS)) pointed out that the new fee structure reflected the re-classification of vessels from over ten classes into four classes. As a result of the proposed restructuring, cargo vessels which carried dangerous goods were classified as Class II cargo vessels, and the fee structure for dangerous goods cargo vessels was higher. They further said that there was a need to carry out a biennial inspection to ensure the safety of non-mechanised stationary vessels, which amounted to some 175 vessels. On the definition of non-mechanised stationary vessels, they said that these covered platforms, vessels employed in fish drying and hawking which were currently not subject to survey fee charging.

*Fees for the examination of crew members*

35. In reply to Mr LEUNG Fu-wah, GM of M(LVS) confirmed that the local certificate of competency for crew on board local vessels would be issued for life except Type Rating Certificate (TRC). New certificates for TRC would be issued after revalidation every 2 years to ensure a high standard required for the operation of high speed vessels. Given a detailed assessment on crew members would be carried out for TRC revalidation, the fees would be increased from \$150 to \$700 to achieve full cost recovery.

*Licence fees*

36. On the changes in licence fees, AD of M(PC) advised that the changes mainly arose from the re-classification of vessels and standardization of the unit used to calculate the fees. The newly standardized charging unit, i.e. *overall length times extreme breadth*, would reflect truly the size of vessel and the water area to be occupied and also remove outdated and complicated charging unit such as "picul", which used *length minus breadth* of a vessel as a factor of calculation. He emphasized that the changes were based on the principle of "revenue neutral".

37. In reply to Miss CHOY So-yuk's enquiry on the reason for changing the unit used to calculate licence fees, D of M explained that the use of "picul" in calculating the fees was unfair as local vessels of significant sizes such as barges, which usually resulted in a small difference on *length minus breadth* and derived a small "picul". As such, barges only needed to pay very low licence fees. The proposed changes followed updated international practice and charged vessels according to the size.

38. Ms Miriam LAU sought information on the percentage change of fee increase

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for the licence fees. She was worried that the rise in the licence fees of certain vessels might become unaffordable to some vessel owners. In response, AD of M(PC) said there was only one extreme case in which the licence fee of a work barge (Class II vessel) would be raised from about \$800 to \$13,382. He explained that the significant increase was due to the change in the standardization of the unit used to calculate the licence fee. PSEDL(ED) undertook to provide the information on the percentage change of fee increase for the licence fees.

39. The Chairman concluded that the Panel supported the proposed LV(F)R.

Merchant Shipping (Local Vessels) (Works) Regulation ("LV(W)R")

40. Members noted that under LV(W)R, derricks would be subject to the requirement for thorough examination by a competent examiner at least once every 12 months under LV(W)R and the Administration was working on a set of "Codes of Practice for Strength Calculation, Test and Examination of Derrick Cranes on Local Vessels". While reflecting the support of the shipping industry for the proposed LV(W)R, Ms Miriam LAU however was concerned that derricks constructed before the introduction of LV(W)R could not pass the examination according to the revised standards set in the codes of practice.

41. GM of M(LVS) informed members that the concern had been reflected by the industry during consultation for LV(W)R. D of M pointed out that the codes of practice would be finalized after a consensus was reached with the industry including the institution for professional engineers. He said it might be possible that the codes of practice would only apply to new vessels whereas existing vessels would be subject to another set of guidelines.

42. The Chairman concluded that the Panel supported the proposed LV(W)R.

Regulation under the Shipping and Port Control Ordinance (Cap. 313)

43. Members noted and agreed to the proposal as set out in the paper.

**V Miscellaneous Amendment (Local Vessels) Bill 2003**

(LC Paper No. CB(1)764/02-03(04) - Information paper provided by the Administration)

44. At the invitation of the Chairman, D of M took members through the Administration's paper.

45. The Chairman said that the Administration should conduct extensive consultation and attached the responses received to the Administration's paper to facilitate members' consideration. D of M pointed out that these were all consequential amendments and an effective consultation mechanism was in place. He said that the Provisional Local Vessel Advisory Committee and its relevant sub-committees/working groups which comprised a wide-cross section of representatives

from the local shipping industry had been consulted.

46. Members noted that the Bill would be presented to the Council soon.

**VI Any other business**

47. There being no other business, the meeting ended at 12:45pm.

Council Business Division 1  
Legislative Council Secretariat  
21 February 2003