

立法會
Legislative Council

LC Paper No. CB(1)1180/02-03
(These minutes have been seen
by the Administration)

Ref: CB1/PL/ES/1

Panel on Economic Services

**Minutes of meeting held on
Monday, 24 February 2003, at 10:45 am
in Room A of the Legislative Council Building**

- Members present** : Hon James TIEN Pei-chun, GBS, JP (Chairman)
Hon Kenneth TING Woo-shou, JP
Hon Fred LI Wah-ming, 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 Abraham SHEK Lai-him, JP
Hon Henry WU King-cheong, BBS, JP
- Members absent** : Dr Hon LUI Ming-wah, JP (Deputy Chairman)
Hon Eric LI Ka-cheung, JP
Dr Hon David LI Kwok-po, GBS, JP
Hon Mrs Selina CHOW LIANG Shuk-yee, GBS, JP
Hon CHEUNG Man-kwong
Hon CHOY So-yuk
Hon LEUNG Fu-wah, MH, JP
- 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 Roger TUPPER
Deputy Director of Marine

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

Staff in attendance : Ms Debbie YAU
Senior Assistant Secretary (1)1

Miss Winnie CHENG
Legislative Assistant 5

Action

I Confirmation of minutes and matters arising

- (LC Paper No. CB(1)909/02-03 - Minutes of meeting held on 13 January 2003; and
LC Paper No. CB(1)936/02-03 - Minutes of meeting held on 27 January 2003)

The minutes of the meetings on 13 and 27 January 2003 were confirmed.

II Information papers issued since last meeting

- (LC Paper No. CB(1)841/02-03(01) - Tables and graphs showing the import and retail prices of major oil products from January 2001 to December 2002 furnished by the Census and Statistics Department)

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

III Items for discussion at the next meeting scheduled for 31 March 2003

- (LC Paper No. CB(1)928/02-03(01) - List of outstanding items for discussion; and
LC Paper No. CB(1)928/02-03(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 31 March 2003:

- (a) Update on Hong Kong Disneyland; and
- (b) Amendment to safety standards under the Toys and Children's Products Safety Ordinance

4. In view of the recent tensions between the United States and Iraq, members were concerned about the rising oil prices and the resulting impact on the economy and the general public at large. They agreed to invite the Administration to brief members on how it monitored the trend movements of oil prices and prevented the local oil companies from taking advantage of the situation to increase the retail prices of oil products.

IV Subsidiary Legislation under Merchant Shipping (Local Vessels) Ordinance, Cap. 548: Merchant Shipping (Local Vessels) (Compulsory Third Party Risks Insurance) Regulation

(LC Paper No. CB(1)764/02-03(03) - Information paper on "Subsidiary Legislation under Merchant Shipping (Local Vessels) Ordinance, Cap. 548 and Shipping and Port Control Ordinance, Cap. 313" provided by the Administration for the meeting on 27 January 2003

LC Paper No. CB(1)946/02-03(01) - Follow-up paper provided by the Administration on "Subsidiary Legislation under Merchant Shipping (Local Vessels) Ordinance Cap. 548"; and

LC Paper No. CB(1)928/02-03(03) - Information paper provided by the Administration for the meeting on 24 February 2003)

5. At the invitation of the Chairman, the Permanent Secretary for Economic Development and Labour (Economic Development) (PSED(L/ED)) said that the proposed Merchant Shipping (Local Vessels) (Compulsory Third Party Risks Insurance) Regulation was discussed by members at the last meeting held on 27 January 2003. Taking into account members' views expressed at that meeting, the Administration had reviewed and revised the proposed compulsory third party risks insurance requirement for local vessels. She then briefed members on the essential features of the revised proposals.

6. Members noted from the Administration's paper (LC Paper No. CB(1) 946/02-03(01)) that the compulsory third party risks insurance requirement had been discussed by a number of advisory bodies. The Chairman however considered that the existing membership of the Committee on Boating and Yachting was not wide enough to represent the interests of owners of private pleasure vessels. He asked the Administration to review the composition of the relevant advisory bodies. The Director of Marine (D of M) responded that upon the enactment of the relevant subsidiary legislation under Merchant Shipping (Local Vessels) Ordinance (Cap. 548),

the Administration would conduct an overall review on the composition of the advisory bodies. PSEDL(ED) added that the Administration welcomed members' suggestions in this regard.

Levels of minimum liability cover

7. Members noted that under the revised proposals, all local vessels which did not carry fare-paying passengers, including pleasure vessels not letting for reward and irrespective of the number of passengers they carried, would only be subject to a minimum level of third party risks insurance liability cover of \$1 million. Ms Miriam LAU and Mr HUI Cheung-ching sought clarification on the scope of application of the above provision and the definition of "No fare-paying passengers". Ms Miriam LAU also enquired if cargo vessels and river trade vessels (RTVs) which carried coxswains, crew members and other passengers would be classified as vessels carrying no fare-paying passengers and subject to a minimum liability cover of \$1 million. Mr HUI Cheung-ching enquired whether the Chinese rendition of the term "No fare-paying passengers" should read as "接載不需要繳費乘客" instead of "不接載繳費乘客". In the case of local vessels carrying group tour passengers who were not required to pay a separate fare on board a local vessel, Mr Howard YOUNG was concerned whether the proposed level of minimum liability cover of \$1 million would be sufficient for the protection of this group of passengers.

8. In response, D of M advised that local vessels were classified into four classes, namely passenger vessels, cargo vessels, fishing vessels and pleasure vessels. Under the revised proposals, cargo vessels and fishing vessels which did not normally carry fare-paying passengers would be subject to a minimum liability cover of \$1 million. Regarding passenger vessels and pleasure vessels which carried up to 12 or more than 12 fare-paying passengers except Kaitos and shuttle passenger sampans in typhoon shelters, they would be subject to a minimum liability cover of \$1 million and \$5 million respectively. As Kaitos and passenger sampans were less likely to cause serious accidents, the level of minimum liability cover was lowered to \$1 million, irrespective of the number of fare-passengers they carried. D of M further said that group tour passengers would be treated as "fare-paying passengers" for the purpose of implementing the compulsory third party risks insurance requirement for local vessels.

9. Noting the Administration's reply, Ms Miriam LAU urged the Administration to specify the required levels of minimum liability cover for different types of vessels when the legislative proposal was introduced into the Legislative Council.

10. Referring to the marine accidents occurred in 2002 which involved pleasure vessels, Mr CHAN Kam-lam sought information on the amount of compensation awarded by the court to the third party victims in the incidents. He also enquired about the changes to insurance cover and premium after the terrorist incident in the US on 11 September 2001.

11. On the amount of compensation, D of M advised that the Administration had just completed the investigations into the marine accidents occurred in 2002 which involved pleasure vessels. As court proceedings were still underway, the exact amount of compensation had yet to be decided by the court. He however advised that

in the past five years, the amount of compensation awarded by the court to third party victims in the marine accidents which involved pleasure vessels ranged from \$0.6 million to \$1.6 million.

12. Referring to Annex 3 of LC Paper No. CB(1)946/02-03(01), the Chairman enquired if the type of accidents under the category of "collision" included both collision of vessels as well as collision of vessels with berths/piers etc. D of M advised that "collision" in the said table only referred to collision of vessels. Statistics of collision of vessels with berths/piers etc were included in the category of "contact".

13. Ms Miriam LAU sought clarification on whether deaths and injuries of third parties due to cargo handling operations of vessels would be covered by the compulsory third party risks insurance requirements. She also expressed grave concern about marine industrial safety, particularly those involving mid-stream operation.

14. D of M said that the Administration was working on a number of initiatives to enhance marine industrial safety. The Merchant Shipping (Local Vessels) (Works) Regulation aimed at regulating safety at work, including cargo handling carried out on local vessels. He also explained that the proposed compulsory third party risks insurance requirements should also cover deaths and injuries of third parties due to mid-stream container handling operations. Ms Miriam LAU requested the Administration to provide information on the scope of the proposed third party risks insurance coverage relating to cargo handling operation carried out on local vessels.

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River trade vessels

15. Ms Miriam LAU reiterated her concern about the difficulties encountered by victims of marine accidents to claim damages from RTVs. She was disappointed that the present proposal could not help address the problem faced by the local trade. She asked the Administration to consider requesting RTV owners, prior to entering Hong Kong waters, to give an undertaking to permit the Marine Department to release their contact details to victims of marine accidents for the purpose of seeking compensation, if necessary.

16. In response, D of M explained that under the Shipping and Port Control Regulations (Cap. 313A), RTV owners or masters would be required to tender pre-arrival notification (PAN) to D of M and provide information regarding third party risks insurance they had taken out for their vessels before entering the waters of Hong Kong. For vessels which failed to provide such information in accordance with the relevant provision, D of M could refuse their entry into the waters of Hong Kong. The Administration was now maintaining a close liaison with the relevant Mainland authorities, and would process legislative amendment to tie in with the full implementation of compulsory third party risks insurance requirements in the Mainland. This would help victims in seeking compensation from RTV owners or masters. Mr CHAN Kam-lam believed that most injured parties could recover damages from RTV owners. He requested the Administration to provide Panel members relevant information on cases concerned. The Administration undertook to brief Panel members again on amendments to the Shipping and Port Control

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Regulations when ready.

17. Mr Kenneth TING and Mr CHAN Kam-lam indicated their support to the revised proposals. The Chairman concluded that the Panel was in support of the revised proposals put forward by the Administration.

V Merchant Shipping (Liability and Compensation for Oil Pollution) (Amendment) Bill 2003

(LC Paper No. CB(1)928/02-03(04) - Information paper provided by the Administration)

18. At the invitation of the Chairman, D of M took members through the Administration's paper. PSEDL(ED) further highlighted that apart from some proposed technical amendments, the Merchant Shipping (Liability and Compensation for Oil Pollution) (Amendment) Bill 2003 was introduced to give effect to the changes arising from two International Maritime Organization (IMO) resolutions, namely, the International Convention on Civil Liability for Oil Pollution Damage, 1992 (1992 CLC) and the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992 (1992 Fund). The Legal Committee of the IMO adopted the two Resolutions in October 2000 to increase the limits of shipowners' liability under the 1992 CLC and the maximum amounts of compensation payable under the 1992 Fund. The two Resolutions would be binding on all Contracting Parties to the 1992 CLC and the 1992 Fund and there was no room for Government to change the new limitation amount under the 1992 CLC and the new limits of compensation under the 1992 Fund. On the implementation date of the two Resolutions, she said that notwithstanding the passage of the two Resolutions by IMO on 18 October 2000, their actual implementation would hinge on the approval of a required proportion of the Contracting Parties to the 1992 CLC and the 1992 Fund. Having satisfied the said requirement, the two Resolutions would now come into force on 1 November 2003 and the Administration would need to introduce the relevant legislation to effect the amendments. PSEDL(ED) stressed that the two Resolutions were beneficial to Hong Kong. On one hand, Hong Kong would receive higher levels of compensation for oil pollution damage to Hong Kong waters caused by oil vessels of other Contracting Parties. On the other, the Resolutions facilitated oil vessels registered in Hong Kong to gain entrance to ports of other Contracting Parties.

19. In reply to the Chairman and Mr Henry WU, D of M confirmed that out of the 111 oil vessels registered in Hong Kong, 58 were ocean-going vessels and 53 were local vessels. He said that the 1992 CLC and 1992 Fund were applicable to 91 and 80 Contracting Parties respectively, both including the Hong Kong Special Administrative Region. If the Contracting Parties chose not to follow the Resolutions of IMO and issue certificate showing that their oil vessels had complied with 1992 CLC (Certificate for CLC), ports of other Contracting Parties could deny access of these oil vessels without the Certificate for CLC. D of M further said that according to the protection and indemnity (P&I) clubs, the new limits under 1992 CLC and 1992 Fund would not bring about a respective increase of premium or contribution correspondingly. In fact, the premium or contribution for a particular oil vessel for 1992 CLC or 1992 Fund was set according to the amount of claim, if any, made in the previous years.

20. Ms Miriam LAU was unconvinced that the level of premium or contribution would not be increased following the upsurge on the limits of shipowners' liability under the 1992 CLC and the maximum amounts of compensation payable under the 1992 Fund. In response, D of M reiterated that upon consultation, P&I clubs had indicated that a corresponding higher premium or contribution would not be imposed.

21. Upon Mr CHAN Kam-lam's enquiry about the financing arrangement for the 1992 Fund, D of M advised that the Fund was financed by contributions levied on any oil companies which had received more than 150 000 tonnes of oil in a Contracting Party to the 1992 Fund in a calendar year. The contributions made by oil companies in Hong Kong were decreasing from £24,000 in 2000 to £12,600 in 2001 and £7,900 in 2002, reflecting a relatively low level of oil pollution damage caused by oil spills from oil tankers in these years. Shipowners were subject to the liability for damage caused by oil spills from their tankers and thus were required to insure the liability under 1992 CLC.

22. In response to Mr Kenneth TING and Mr CHAN Kam-lam, D of M pointed out that the Government would issue Certificate for CLC at a low cost to shipowners upon their presentation of the insurance certificates. Shipowners might also apply for Certificate for CLC from other Contracting Parties.

23. In reply to Mr Abraham SHEK, D of M highlighted that shipowners of Hong Kong were currently controlling about 6% of all ships in the world, and Hong Kong ranked the 9th position in the shipping registers in the world.

24. Summing up, the Chairman concluded that the Panel supported the proposal. In view of the tight legislative programme for the proposal, PSED(ED) sought members' view on whether the Bill could pass through the Council without setting up a Bills Committee. Members pointed out that the decision to form Bills Committees to examine legislative proposals put forward by the Administration rested with the House Committee and the Panel was not in a position to advise.

VI Any other business

25. There being no other business, the meeting ended at 11:45pm.