

立法會
Legislative Council

LC Paper No. CB(1) 1762/02-03
(These minutes have been seen
by the Administration)

Ref : CB1/PL/FA/1

Legislative Council
Panel on Financial Affairs

Minutes of special meeting held on
Saturday, 15 March 2003 at 10:00 am
in the Chamber of the Legislative Council Building

- Members present** : Hon Henry WU King-cheong, BBS, JP (Deputy Chairman)
Hon James TIEN Pei-chun, GBS, JP
Hon LEE Cheuk-yan
Hon James TO Kun-sun
Hon Bernard CHAN, JP
Hon CHAN Kam-lam, JP
Hon SIN Chung-kai
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Abraham SHEK Lai-him, JP
Hon MA Fung-kwok, JP
- Non-Panel members attending** : Hon Miriam LAU Kin-yee, JP
Hon LI Fung-ying, JP
- Members absent** : Hon Ambrose LAU Hon-chuen, GBS, JP (Chairman)
Hon Kenneth TING Woo-shou, JP
Hon Albert HO Chun-yan
Hon Eric LI Ka-cheung, JP
Dr Hon David LI Kwok-po, GBS, JP
Hon NG Leung-sing, JP
Dr Hon Philip WONG Yu-hong
Hon Emily LAU Wai-hing, JP

**Public officers
attending**

- : Mr Benjamin TANG
Commissioner of Insurance
- Miss Susie HO
Deputy Secretary for Financial Services and the Treasury
(Financial Services)
- Mrs Sharon YIP
Principal Assistant Secretary for Environment
Transport and Works
- Mr Stephen IP
Assistant Commissioner for Transport
(Management & Paratransit)

**Attendance by
invitation**

- : The Hong Kong Federation of Insurers
- Mr K P CHENG
Chairman
- Mr Jackie CHUN
Deputy Chairman
General Insurance Council
- Mr K P CHAN
Chairman, Task Force on the Review of the ECAS
General Insurance Council
- Professional Insurance Brokers Association Limited
- Mr Lewis LAM
Vice-Chairman
- Hong Kong Confederation of Insurance Brokers
- Mr Mark N R JOHNSON
Chairman
- Hong Kong Public-Light Bus Owner and Driver
Association
- Mr LAI Ming-hung
Secretary

航運交通運輸界關注保險費大幅增加聯席會議

- Hong Kong Cargo - Vessel Traders' Association Ltd.

Mr CHOI Kim-lui
Representative

- Hong Kong & Kowloon Ferry Ltd.

Mr NG Siu-yuen
Representative

- Hong Kong and Kowloon Motor Boats and Tug Boats Association Ltd.

Mr KWOK Kam-tung
Representative

- The Hong Kong Stevedore Employers' Association

Mr Simon LIU Cheong-wing
Representative

- Uniton Transport Company

Ms CHEUNG Yee-wab
Representative

- Hong Kong and Kowloon Taxi Merchants' Joint Committee

Mr AU-YEUNG Kan
Representative

- Association of N.T. Radio Taxicabs Ltd.

Mr LAM Kwai-keung
Representative

- Chuen Lee Radio Taxis Association Ltd.

Ms WU Yim-chun
Representative

- The Hong Kong Taxi and Public Light Bus Association Ltd.

Ms CHEUNG Chui-ping
Representative

- 香港九龍新界公共專綫小型巴士聯合總商會

Mr LEUNG Hung
Representative

- 香港貨櫃拖運業聯會

Mr Steve LO
Representative

- 香港貨櫃車主聯會

Mr Ricky WONG
Representative

- Hong Kong Association of Aircargo Truckers Limited

Mr Richard TSANG
Representative

- Hong Kong Dumper Truck Drivers Association

Mr HO Hung-fai
Representative

- Mixer Truck Drivers Association

Mr CHAN Sam-choi
Representative

- 中重型貨車關注組

Mr LAI Kim-tak
Representative

- Lok Ma Chau China-Hong Kong Freight Association

Mr CHOI Hon-yim
Representative

Consumer Council

Mr Ronald John CAMERON
Head, Trade Practices Division

Mr Martin WONG
Chief Complaints and Advise Division

Multi Express (Hong Kong) Limited

Mr Peter YU
Director

Equal Opportunities Commission

Ms Anna WU
Chairperson

Miss Alexandra PAPADOPOULOS
Legal Adviser

Mr Joseph LI
Chief Officer (Policy Support and Research)

Ms Betty LIU
Head (Promotion and Education Unit)

Clerk in attendance : Ms Anita SIT
Chief Assistant Secretary (1)6

Staff in attendance : Mr Joey LO
Assistant Secretary (1)1

Miss Christy YAU
Legislative Assistant 7

Action

I. Difficulties encountered by some sectors in obtaining insurance coverage

Written submission received from a District Council member who was not able to attend the meeting

LC Paper No. CB(1)1088/02-03(06) — Letter from Mr YEUNG Wai-sing, Eastern District Council member

Other relevant papers

LC Paper No. CB(1)1112/02-03(01) — Paper provided by the Administration; and

LC Paper No. CB(1)1088/02-03(01) — Submission from the Hong Kong Confederation of Insurance Brokers

Meeting with deputations from the transport sector and the Consumer Council

Hong Kong Public-Light Bus Owner and Driver Association

LC Paper No. CB(1)1145/02-03(03)

At the invitation of the Chairman to speak, Mr LAI Ming-hung presented the association's views on the issue. The salient points were as follows -

- (a) Since 2000, the premium for total sum insured for public light bus has increased from \$12,000 to \$50,000 and then to \$60,000, whereas the premium for third party insurance has increased from \$7,000 to \$40,000.
- (b) Whilst insurance companies often refused to underwrite those who had been involved in traffic accidents, light bus owners expropriated the drivers' deposits whenever accidents happened, regardless of who should take the blame for the accidents. This had led to blackmailing of drivers by people deliberately causing accidents.

Hong Kong Cargo-Vessel Traders' Association Limited

LC Paper No. CB(1)1134/02-03(01)

2. Mr CHOI Kim-lui presented the association's views on the issue. The salient points were as follows -

- (a) Employees' Compensation (EC) plus third party insurance premiums had increased two to three folds from 2002 to 2003, although waterborne cargo-related accidents had reduced from 520 in 1999 to 421 in 2001.
- (b) The granting of legal aid to mainland river vessel crewmen by the Legal Aid Department had caused substantial increase in the number and amount of injury awards and caused premiums to rise.

Action

Hong Kong and Kowloon Ferry Limited

LC Paper No. CB(1)1134/02-03(02)

3. Mr NG Siu-yuen presented the company's views on the issue. He highlighted that due to substantial underwriting loss in EC insurance over the past few years, the insurance company which had been underwriting the company's EC insurance had decided not to underwrite the EC insurance of its pier staff, even though its pier staff had never made any claims.

港九電船拖輪商會

4. Mr KWOK Kam-tung presented the association's views on the issue. He highlighted that the EC insurance premium borne by members of the trade had increased 40% even though the trade's track record was good without any fatality record.

The Hong Kong Stevedore Employers' Association

LC Paper No. CB(1)1134/02-03(03)

5. Mr LIU Cheong-wing presented the association's views on the issue. He cited the insurance companies' delaying tactic in renewal of policies, selective underwriting, refusing to underwrite, rising deductibles and soaring premiums as problems facing the stevedore employers in obtaining insurance coverage.

聯通貨運有限公司

LC Paper No. CB(1)1134/02-03(04)

6. Ms CHEUNG Yee-wah presented the company's views on the issue. The salient points were as follows -

- (a) The company was notified of the premium for renewal of policy only 1 to 2 days before the expiry of the existing one, making it difficult to find an alternative insurer;
- (b) The company was faced with a 50-150% rise in premium for each vessel. Protection and Indemnity (P&I) premium no longer includes employee compensation premium for crewmen. EC premium for crewmen was now calculated on a per head basis of \$30,000 per crewman;
- (c) Insurance companies colluded and shared information on companies being refused for insurance; and
- (d) The company was faced with a 185% rise in deductibles for employee compensation insurance, from \$3,500 to \$10,000 per incident. The deductibles for Protection and Indemnity (P&I) insurance had also risen by 50%.

Action

Hong Kong and Kowloon Taxi Merchants' Joint Committee
LC Paper No. CB(1)1134/02-03(05)

7. Mr AU YEUNG Kan presented the Joint Committee's views on the issue. On the soaring premium, he quoted one instance in which the premium for total sum insured had increased 17% from 2000 to 2003, whereas third party insurance premium (with 60% no claim bonus (NCB)) had increased by over 90%, although the traffic accident rate for taxis had been steadily on the decline. He also highlighted that the domination of market by a few insurers had aggravated the situation. Members of the trade were often refused insurance coverage if they had been involved in traffic accidents.

Association of New Territories Radio Taxicabs Limited
LC Paper No. CB(1)1134/02-03(06)

8. Mr LAM Kwai-keung presented the association's views on the issue. On the soaring premiums, he quoted market domination and the deduction of the no claim bonus (NCB) as factors causing premiums to rise. He said that the maximum NCB for taxi had been reduced from 60% to 30%. He also commented that the present limit of indemnity for accidents was unrealistic. The statutory minimum insurance coverage for bodily injury per event now stood at \$100 million (Motor Vehicle Insurance (Third Party Risks) Ordinance (Cap 272) Section 6(1)(b) and Regulation 27). The association proposed to lower the statutory coverage level to \$10 million.

全利電召的士聯會有限公司

9. Ms WU Yim-chun presented the association's views on the issue. Facing problems similar to the ones raised by other taxi trade associations, the association proposed that every taxi driver should take out a third party insurance so as to undertake their own share of responsibility in the event of an accident. This might help to lower accident rate and hence premiums.

The Hong Kong Taxi and Public Light Bus Association Limited
LC Paper No. CB(1)1134/02-03(07)

10. Ms CHEUNG Chui-ping presented the association's views on the issue. She opined that as professional drivers, taxi drivers should be rated lower than private vehicle drivers in terms of risk level. On the issue of soaring premiums, she cited examples of unreasonable loadings being imposed on those who had switched from another insurance company; on the basis of year of manufacture of the vehicle; and on those involved in traffic accidents irrespective of whether the accidents had given rise to claims. Also, many insurance companies refused to underwrite and were suspected of maintaining a blacklist of those involved in traffic accidents. Moreover, there was a lack of transparent mechanism for determining premiums, loadings and deductibles.

Action

香港九龍新界公共專線小型巴士聯合總商會

LC Paper No. CB(1)1134/02-03(08)

11. Mr LEUNG Hung presented the association's views on the issue. He complained that premiums for third party insurance and total sum insured for new vehicles had almost doubled since 2001. Moreover, he complained that if drivers were pleaded guilty for accidents in court but had not reported to insurance company beforehand, insurance companies would deny compensation for the accidents.

香港貨櫃拖運業聯會

LC Paper No. CB(1)1145/02-03(01)

12. Mr Steve LO complained about the lack of transparent mechanism for determining risk level and premiums. He said that EC premium rates for container truck drivers had increased from 1.5% to 8.5% from 1998 to 2003. He also pointed out the loopholes in the compensation mechanism. As injured workers could claim up to 80% of their normal income, which is higher than their low season income, many exploited the loopholes by pretending to become injured. On the double liability for common law claim and statutory benefits claim, he proposed that there should be an upper limit for bodily injury claims or allowing only one type of claim. He also said that the granting of legal aid to non-Hong Kong residents by the Legal Aid Department had greatly increased the number and amount of injury awards and caused premiums to rise.

香港貨櫃車主聯會

13. Mr Ricky WONG complained about the loopholes in the compensation mechanism. As injured employees could claim up to 80% of their average peak season income, which was still higher than their low season income, many drivers exploited the loopholes by providing fake injury reports.

Hong Kong Association of Aircargo Truckers Limited

LC Paper No. CB(1)1134/02-03(09)

14. Mr Richard TSANG complained about the soaring premium, refusal to underwrite based on accident records, rising deductibles based on the age and years of experience of the drivers and the lack of transparent mechanism for determining risk level and premiums. He urged the Administration to enact legislation stipulating the age and professional requirements of occupational drivers, and to examine the need to strengthen the monitoring of insurers in respect of premiums.

Hong Kong Dumper Truck Drivers Association

LC Paper No. CB(1)1134/02-03(10)

15. Mr HO Hung-fai complained about the domination of market by several insurers, colluding/sharing of customer information, soaring premiums against declining

Action

accident figures and lack of transparent mechanism for determining premiums. In particular, he complained that older vehicles which had passed the vehicle examination of the Transport Department were still regarded as high risk vehicles, and were charged unreasonably high premiums.

混凝土車司機協會

LC Paper No. CB(1)1145/02-03(02)

16. Mr CHAN Sam-choi complained that the premiums for substitute drivers were so high to be affordable (8.3% of annual income), and many drivers had opted for self-employed status whilst continuing to be an employee in fact, thus depriving themselves of any protection in the event of an accident.

中重型貨車關注組

17. Mr LAI Kim-tak complained about the collusion between insurance companies, selective underwriting practices and the lack of transparency of the premium determination mechanism of insurers.

Lok Ma Chau China-Hong Kong Freight Association

LC Paper No. CB(1)1134/02-03(11)

18. Mr CHOI Hon-yin complained about soaring premiums. He cited the 100% rise in the premium for third party insurance and 200-300% rise in the premium for EC insurance. He said that the association strongly urged the Government to set up a commission to regulate the insurance industry.

Consumer Council

LC Paper No. CB(1)1088/02-03(05)

19. Mr Ronald John CAMERON of the Consumer Council briefed members on the proposals outlined in the Consumer Council's submission to the Panel, including increasing insurance product mix, more transparent criteria used in setting loadings and excesses; pool insurance to underwrite unwanted business; preventing collusion; more transparent criteria for the application of the "betterment" principle, and more effective dissemination of information about the "betterment" principle to consumers to minimize their exposure to inadvertent application of the principle by insurers.

Multi Express (HK) Ltd

20. Mr Peter YU said that the company had no further views to add.

Discussion

21. Mr CHAN Kam-lam said that he was sympathetic towards both the operators and insurance companies. He however expressed reservations on the magnitude of the

Action

increases in premiums by insurance companies; the sharp rise in premiums did not appear to be commensurate with the trends of the relevant risks.

22. Ms Miriam LAU commented although there were no deliberate actions on the part of insurance companies to collude, the net result was de facto collusion. She urged the Commissioner of Insurance (C of I) to play an intermediary's role and assist in solving the problem. She remarked that although the insurance market was a free one, operators of various industries were bound by law to obtain statutory insurance coverage for motor vehicle third party insurance and EC insurance. She said that the statutory minimum insurance coverage for bodily injury per event now stood at \$100 million under the Motor Vehicle Insurance (Third Party Risks) Ordinance, and urged the Administration to consider lowering the statutory coverage level with a view to alleviating the burden of transport operators. She expressed strong dissatisfaction towards the Administration's inaction on tackling the difficulties faced by various business sectors in particular the transport sector in obtaining mandatory insurance coverage. She opined that the Secretary for Economic Development and Labour should be invited to a further meeting to be held by the Panel to discuss the solution to the matter.

23. In response, Deputy Secretary for Financial Services and the Treasury (DS/FST) said that a proactive approach would be to focus on the prevention of accidents and the improvement of communication and sharing of information amongst the Administration, operators of various industries and insurers. This could avoid miscommunication and facilitate more accurate risk assessment by insurers, which might help lower the level of premiums for some business operators.

24. C of I said that he had been in consultation with various sectors to hear their views on the subject over the past year. He advised that it was not within his purview to interfere with the underwriting policy and premium setting of insurers. He emphasized that he had the responsibility to ensure that all insurance companies were financially sound and were doing business on a commercially viable basis. He stressed that it was against the free market principle for the Administration to impose legislation requiring insurance companies to underwrite certain types of insurance or underwrite for certain types of customers. However, he indicated that he would issue a letter to insurance companies to encourage them to provide EC and motor vehicle insurance coverage. He advised that the insurance brokers' associations could also be approached if assistance was required.

25. Mr K P CHENG supplemented that the insurance companies' ability to underwrite depended on its financial position and the availability of expertise for different types of insurance. He pointed out that the underwriting profit of \$1.1 billion generated in 2002 by the Hong Kong general insurance industry did not come from motor vehicle insurance or EC insurance but from the property damage line of business. He stressed that not all insurance companies managed to make a profit. Only about 80 out of 154 companies managed to breakeven or make a profit. The accumulated loss of the industry over the past 12 years in EC insurance had almost reached \$6 billion. The

Action

present levels of premiums were only aimed at covering the costs involved. On the subject of market domination, Mr CHENG explained that it was not a deliberate act of market domination by the insurance companies. The practice of charging unified premiums in respect of EC insurance in the past had been abolished in response to the call from the Consumer Council. Mr CHENG emphasized that the fundamental remedy lay in improving the business environment of the insurance industry. This would be achieved by promoting industrial and road safety, thus minimizing losses due to excessive claims/compensation.

26. On Consumer Council's suggestion for a greater variety of motor vehicle insurance covers, Mr CHENG explained that a few options were once available in the market such as third party damage, fire and theft, and ACT only (third party injury), but such options were not welcomed by consumers and hence had been withdrawn from the market. On Consumer Council's suggestion for the use of second hand spare parts for repair under the principle of betterment, Mr CHENG said that it was not favoured by motor vehicle owners as most of them would prefer to use brand new original equipment manufacture (OEM) products for repair.

27. Mr Lewis LAM echoed Mr CHENG's views and remarked that the insurance companies were victims of the unfavourable business environment. He said the insurance companies had no choice but to raise premiums in order to cover the costs in providing the EC and motor vehicle insurance coverage, but this had not led to increased demand and profits.

28. Mr Mark JOHNSON remarked that the purchase of insurance was a commercial transaction and premiums were determined in the free market. The increase in premiums were not the result of market domination or collusion but it was the relevant statutory requirements and other systemic factors which necessitated higher premiums.

29. Mr LEE Cheuk-yan expressed concern that due to high EC insurance premiums, some container truck drivers were forced to change to self-employed status when they were bona fide employees. He remarked that as the drivers had taken out a business registration, they would not be entitled to any employee compensation if they were injured at work, and would encounter difficulties when seeking help from the Legal Aid Department. He expressed reservation about allegations of employees pretending to be injured as it was difficult to provide medical proof if the person was not really injured.

30. Noting the difficulties faced by the various sectors ranging from the ship repair industry to the trucking industry in obtaining insurance coverage, Ms LI Fung-ying urged the Administration to put forward contingency plans to tackle the problem urgently. She considered that there were deficiencies in the operation of the insurance market and the Administration had the responsibility to identify and tackle the problems which were affecting the livelihood of many in the community.

Action

31. DS/FST remarked that the problem of employees changing to “self-employed” status (whether genuine or not) would more appropriately be answered by the representatives of the Labour Department at the forthcoming meeting to be held on 22 March 2003. She cautioned that the proposals to confine injured employees’ right to claim only one form of compensation (i.e. either statutory compensation or common law damages) or to limit the liability of employers or motorists for bodily injury would have far-reaching implications, as they were related to the employees'/victims' rights to compensation. She assured members that the Administration would continue to work with the relevant stakeholders with a view to tackling the problem.

32. Members agreed to wait for the outcome of the deliberation at the forthcoming special meeting on the same subject to be held on 22 March 2003 before deciding how the issues could be pursued.

Meeting with Equal Opportunities Commission

LC Paper Nos. CB(1)1088/02-03(02)-(04) and CB(1)1145/02-03(05)

33. At the invitation of the Chairman to speak, Ms Anna WU of the Equal Opportunities Commission (EOC) briefed members on the issues raised in EOC's "Discussion Paper on Insurance Issues under the Anti-discrimination Legislation". The EOC commissioned a research study in 2000 on insurance to assess whether the provision of insurance by employers and insurance companies in Hong Kong was in compliance with the anti-discrimination legislation. The study identified issues and insurance practices that might lead to unlawful discrimination. The EOC invited the public and the insurance industry to provide views on issues outlined in the discussion paper by 20 March 2003. The issues highlighted by Ms WU included: refusing insurance, hiking premium, limited cover, deferral of approval of coverage and various forms of discrimination due to exclusion of pre-existing conditions, blanket exclusions, genetic testing results, pregnancy and family status.

34. On EOC's research study, Mr Bernard CHAN enquired about the improvement measures identified in the study and the relevant overseas experience. Ms Anna WU said that the insurance industry in Hong Kong was subject to relevant statutory requirements under the anti-discrimination legislation in Hong Kong. The principles underlying these statutory requirements were commonly adopted in many overseas countries. EOC did not find a need to revamp Hong Kong's anti-discrimination laws in regard to provision of insurance services. However, EOC had identified some issues which had frequently caused disputes or conflicts between insurance companies and consumers/policyholders. In this regard, EOC had suggested measures to enhance communication between insurance companies and consumers/policyholders, to improve the complaints handling mechanism of the insurance industry and to improve the clarity of insurance policy terms to avoid misunderstanding.

Action

II. Any other business

35. There being no other business, the meeting ended at 12:20 pm.

Council Business Division 1
Legislative Council Secretariat
26 May 2003