

立法會
Legislative Council

LC Paper No. CB(1)497/04-05
(These minutes have been seen
by the Administration)

Ref: CB1/PL/ES/1

Panel on Economic Services

**Minutes of meeting held on
Monday, 22 November 2004, at 10:45 am
in the Chamber of the Legislative Council Building**

- Members present** : Hon James TIEN Pei-chun, GBS, JP (Chairman)
Hon Abraham SHEK Lai-him, JP (Deputy Chairman)
Ir Dr Hon Raymond HO Chung-tai, S.B.St.J., JP
Hon Fred LI Wah-ming, JP
Dr Hon LUI Ming-wah, JP
Hon CHAN Kam-lam, JP
Hon SIN Chung-kai, JP
Hon Howard YOUNG, SBS, JP
Hon LAU Chin-shek, JP
Hon Miriam LAU Kin-yeek, GBS, JP
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon WONG Ting-kwong, BBS
Hon Ronny TONG Ka-wah, SC
Hon CHIM Pui-chung
Hon KWONG Chi-kin
Hon TAM Heung-man
- Members attending** : Hon Mrs Selina CHOW LIANG Shuk-yeek, GBS, JP
Hon CHAN Yuen-han, JP
Hon LI Fung-ying, BBS, JP
Hon WONG Kwok-hing, MH
Hon LEE Wing-tat
- Member absent** : Dr Hon David LI Kwok-po, GBS, JP

**Public Officers
attending**

: Agenda item IV

Mr Stephen IP
Secretary for Economic Development and Labour

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

Mr Wilson FUNG
Deputy Secretary for Economic Development and Labour
(Economic Development)²

Mr Howard LEE
Principal Assistant Secretary for Economic Development
and Labour (Economic Development)

Agenda item V

Mr Stephen IP
Secretary for Economic Development and Labour

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

Mr Raymond FAN
Deputy Secretary for Economic Development and Labour
(Economic Development)³

Agenda item VI

Mr Stephen IP
Secretary for Economic Development and Labour

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

Ms Eva CHENG
Commissioner for Tourism

Mr Eric HO
Registrar of Travel Agents

**Attendance by
invitation**

: Agenda item IV

Airport Authority Hong Kong

Dr David J PANG
Chief Executive Officer

Mr Raymond LAI
Finance Director

Mr Howard ENG
Airport Management Director

Agenda item V

GHK (Hong Kong) Ltd.

Dr Jonathan BEARD
Managing Director

Dr Simon SU
General Manager

Agenda item VI

Travel Industry Council of Hong Kong

Mr Ronnie HO
Chairman

Mr Joseph TUNG
Executive Director

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

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

Miss Winnie CHENG
Legislative Assistant (1)5

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I Confirmation of minutes and matters arising

(LC Paper No. CB(1)236/04-05 - Minutes of meeting held on 25 October 2004)

The minutes of the meeting held on 25 October 2004 were confirmed.

II Information papers issued since last meeting

(LC Paper No. CB(1)126/04-05(01) - (06) - Correspondences from members of the travel industry on issues relating to the Travel Industry Council of Hong Kong

LC Paper No. CB(1)150/04-05(01) - Tables and graphs showing the import and retail prices of major oil products from October 2002 to September 2004 furnished by the Census and Statistics Department

LC Paper No. CB(1)242/04-05(01) - Information paper provided by the Administration on "Progress update on Hong Kong Disneyland"

LC Paper No. CB(1)285/04-05(01) - Submission from Tiglion Travel Services Company Limited on "Regulatory framework of travel agents in Hong Kong")

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

III Items for discussion at the next meeting scheduled for 16 December 2004

(LC Paper No. CB(1)230/04-05(01) - List of outstanding items for discussion

LC Paper No. CB(1)230/04-05(02) - List of follow-up actions)

3. Members noted that the Administration had proposed to discuss the following items at the next regular meeting scheduled for 16 December 2004 at 4:30 pm:

- (a) Expression of Interest exercise on the Lantau Logistics Park;
- (b) Subsidiary legislation related to the Merchant Shipping (Local Vessels) Ordinance; and
- (c) Proposed domestic heliport development.

4. Mr Fred LI pointed out that each year in December, the Panel would convene a meeting after the close of the stock market to discuss the proposed electricity tariff for

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the forthcoming year with the two power companies and the Administration. Ms Miriam LAU also reiterated the need to consider the retail prices of oil products together with the Administration and oil companies.

5. After deliberation, members agreed to hold a special meeting on 7 December 2004 from 2:30 pm to 4:30 pm to deal with the three items as originally proposed for discussion by the Administration at the forthcoming meeting to be held on 16 December 2004. Regarding the meeting on 16 December 2004 at 4:30 pm, members agreed to extend the meeting time to end at 7:30 pm. The meeting would be divided into two sessions. Each session would last for 1.5 hours. The first session would be a closed meeting with the Administration and oil companies to discuss the retail prices of oil products. Individual oil companies would be invited in turn to the meeting to exchange views with members. The second session would be an open session. The two power companies and the Administration would be invited to brief members on the proposed electricity tariff for 2005.

6. Considering the wide public concern on the proposed privatization of the Airport Authority (AA), the Deputy Chairman considered it necessary for the Panel to receive views from various stakeholders on the proposal. Mr Fred LI and Mr SIN Chung-kai agreed. Taking into account the timetable of the public consultation, members agreed to hold a special meeting in January 2005 to receive views from the interested parties on the proposed privatization of AA.

IV Privatization of Airport Authority

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| LC Paper No. CB(1)230/04-05(03) | - Information paper provided by the Administration |
| LC Paper No. CB(1)234/04-05 | - Background brief on "Proposed privatization of Airport Authority" prepared by the Secretariat |
| LC Paper No. CB(1)302/04-05 (01)
<i>(tabled and subsequently issued to members on 23 November 2004)</i> | - Booklet and pamphlet on "Consultation document on Partial Privatization of the Airport Authority") |

7. At the invitation of the Chairman, the Deputy Secretary for Economic Development and Labour (Economic Development)² DS/EDL (ED)² briefed members on the preliminary proposals for the post-privatization regulatory framework for the Airport Authority of Hong Kong (AA). He recapped that the Administration had provided supplementary information on the key issues raised by members on the same subject at the meetings on 23 February and 2 March 2004 (vide LC Paper Nos. CB(1)1154/03-04(01) and CB(1)1749/03-04(01)). Taking into account comments expressed by Members at the above two meetings and views received from other stakeholders, the Administration had now drawn up broad proposals for the post-privatization regulatory framework. DS/EDL(ED)² further introduced the 21 preliminary proposals under the following five main areas:

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- (a) relationship between the Government and a partially privatized AA;
- (b) AA's business case and valuation;
- (c) economic regulation;
- (d) land use, competition and scope of business; and
- (e) impact on companies and workers at the airport.

He said that the proposals had been set out in a consultation document and summarized in a leaflet and the consultation period would last for three months until 28 February 2005. Members noted that subject to the outcome of this consultation exercise, the Administration would finalize the proposals for the post-privatization regulatory framework and briefed the Panel again in early 2005 before introducing the privatization bill into the Council.

8. In view of time constraint and that a special meeting would be held in January 2005 to receive views from various stakeholders and continue discussion with the Administration, members agreed that the Administration should provide written responses to members' questions raised at the meeting.

Labour issues

9. Mr WONG Kwok-hing reflected the strong reservation of the concerned staff unions on the proposed privatization of AA. Notwithstanding that AA had no plan to lay off any of its some 900 staff or reduce their benefits as a result of the proposed privatization, he questioned how the privatized AA could help ensure that the benefits of those staff working under the airport franchisees and contractors would not be affected. He pointed out that in order to secure the service contracts of AA, tenderers were already required to put forward very competitive bids for AA's consideration. To maintain profitability, successful bidders had to carry out cost-saving measures at the expense of employees' well being. For example, the manning requirement for a 747 aircraft after landing normally required some eight to ten staff to service. However, there were cases where only three to five staff were assigned to take up the related work. In this connection, Miss CHAN Yuen-han cautioned that AA should address the issue of public safety in contracting out airport services.

10. Echoing Mr WONG's view, Ms LI Fung-ying pointed out that the consultation document still lacked substantial measures that could help safeguard the benefits and well being of staff working on the airport island. She requested the Administration and AA to provide concrete measures to relieve the concerns of the staff side.

Justifications for privatization

11. Mr Abraham SHEK remarked that the information contained in the consultation document was not adequate for members and the public to consider the proposed privatization of AA. He considered it necessary for the Administration to set out clearly the justifications for privatizing AA, including the recommendations of the consultant. As the construction of the Hong Kong International Airport (HKIA) was aimed at promoting the economic development of Hong Kong, AA should not

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simply focus on maximizing return to its shareholders which might not always be in the best interest of the general public and Hong Kong as a whole. As a matter of principle, the Administration should consider the primary role and function of AA. He also requested the Administration to provide further information on airport charges and the past financial results of AA.

12. Miss CHAN Yuen-han shared his view. She said that the Administration should provide more information, including an objective analysis of the pros and cons of the proposed privatization of AA prepared by financial advisor. In this connection, Mr SIN Chung-kai enquired whether the report prepared by the Government's financial advisor could be released to the Panel for information. Mr CHAN Kam-lam considered it necessary for the Administration to provide further information on the justifications for privatizing AA.

Financial position of HKIA and airport charges

13. Members noted that according to paragraph 15 of the consultation document, the current airport charges of HKIA were comparable to the level in Singapore and lower than those in Seoul, Bangkok, Taipei and the Mainland China. Mr Fred LI queried why the information contradicted to those provided by Hon Howard YOUNG, which revealed that airport charges of HKIA were among the highest in Asia. He sought the Administration's view on the competitiveness of HKIA under the current level of airport charges. Given AA held the view that some increase in airport charges would have little impact on HKIA's competitiveness, Mr LI enquired about the level of increase, and the target rate of return of the privatized AA.

14. Mr Howard YOUNG pointed out that the Administration should consult airlines on their latest position regarding the proposed privatization of AA, given that AA was not satisfied with the current rate of return on investment. He pointed out that airlines were of the view that in the case of AA, a 2% return on investment was not unreasonable, particularly when compared with Osaka Airport the return rate of which was only 1%. Moreover, for those road infrastructure built by the Government, it was not aimed at any profit. Some airlines suggested that AA should adopt a so-called "single-till" approach where the profits from both aeronautical and commercial activities should be taken together in calculation of the target return, so that the profits from the privatized AA's commercial activities could contribute towards keeping airport charges more competitive. This was in line with the economic regulation model of BAA London airports. Furthermore, it had been the practice of the Government to grant MTR Corporation Limited the property development rights along the railway alignments to finance the railway development projects in Hong Kong. As such, similar form of cross-subsidy should be considered with a view to lowering the rate of airport charges.

15. Echoing Mr YOUNG's view, Mr Andrew LEUNG expressed concern on how the Administration could strike a balance between increasing AA's rate of return on investment after privatization and lowering airport charges to increase the competitiveness of HKIA. He also asked about the projected price earning ratio of

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AA upon listing and the possibility of achieving the target.

16. Regarding the rate of return on investment, Mr WONG Ting-kwong enquired whether AA and other overseas airports adopted a similar basis for calculation, for example, whether the investment and operating costs of runways were included. As for the distribution of AA's income, he asked about the contribution from airport charges and other commercial activities.

17. On airport charges, Miss CHAN Yuen-han cautioned that any further increase might reduce the competitiveness of HKIA as in the case of the competitiveness of Hong Kong port being eroded by the persistently high terminal handling charges.

18. Miss TAM Heung-man was concerned about the valuation of AA upon listing, particularly when AA was not allowed to increase airport charges which might affect the amount of proceeds which could be collected from the public offering exercise. In the end, the valuable asset of the general public might be sold at a price which was far below its real value.

19. To increase AA's rate of return on investment, Mr LAM Kin-fung asked about AA's plan to increase the flow of people and goods through HKIA and measures to cut cost and improve efficiency. He also enquired if there was a need to review the salary structure of AA staff with a view to lowering cost.

Monitoring

20. Under the current policy, AA could only engage in airport-related activities. In this regard, Mr CHAN Kam-lam was concerned that this restriction might affect the profitability of AA, and hence, its return on investment after privatization. He also enquired how Government could balance the policy initiative to promote aviation development in Hong Kong and alleged favouritism on the part of the Government to assist a listed company. As the policy direction of the Government would affect the future valuation of AA, its development potential and competitiveness after privatization, there was a need for the Government to account for its thinking.

21. Ir Dr Raymond HO expressed similar concerns and highlighted the conflicting interest between shareholders and the general public at large. He sought clarification from the Government as to whether it would provide the necessary financial support to the privatized AA in case it suffered financial loss due to investment plan in Mainland airports. He also cautioned that deterioration in service standard of HKIA due to shortage of funds would have dampening effect on Hong Kong.

22. Dr LUI Ming-wah agreed that there was a need to disclose more information to enhance the transparency of the whole privatization process. In this respect, he requested the Administration to provide information on views collected during the early stage of consultation and the proposed regulatory framework. There was also a need to provide a comparison between HKIA and other overseas airports and the impact on HKIA upon AA's privatization in terms of being an aviation centre in the

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region.

23. In response, the Secretary for Economic Development and Labour (SEDL) took note of members' view and undertook to provide further information for members' consideration before introducing the relevant legislation into the Council. SEDL fully acknowledged members' concerns on the need to maintain the competitiveness, service standard and safety of HKIA which played a key role to the economic development of Hong Kong. On airport charges, there was a need to draw up a proper mechanism balancing various factors. The Administration was considering establishing a body to arbitrate on the level of airport charges in case an agreement could not be reached between the privatized AA and airlines. He further stressed that the Administration would also send copies of the consultation document to key stakeholders including airlines, airport services operators, labour groups, academics, etc. to solicit their views.

24. Dr David J PANG, Chief Executive Officer of the Airport Authority Hong Kong thanked members' views. Acknowledging that the HKIA was a valuable and important asset for Hong Kong, AA would strive to further enhance the competitiveness of HKIA through privatization and maintain Hong Kong's position as the centre of regional and international aviation.

V Hong Kong Port – Master Plan 2020

- (LC Paper No. CB(1)230/04-05(04) - Information paper provided by the Administration
- LC Paper No. CB(1)230/04-05(05) - PowerPoint presentation materials on "Study on Hong Kong Port – Master Plan 2020" provided by the Administration)

25. At the invitation of the Chairman, the Deputy Secretary for Economic Development and Labour (Economic Development)3 (DS/EDL(ED)3) briefed members on the key features of the recommendations of the "Study on Hong Kong Port – Master Plan 2020" (the Study) which had been completed recently. In gist, he said that while the growth prospects of the South China import/export cargo base were favourable, the competition from neighbouring ports was intensifying and had progressively reduced Hong Kong's market share. Port choice was increasingly focused on total through cost minimization. To ensure the success of Hong Kong's port (HKP) and sustain its development, the Study had recommended a series of immediate and long-term initiatives. Members noted that the Administration would launch a three-month public consultation. The exercise would last until end of February 2005.

26. With the aid of PowerPoint, Dr Jonathan BEARD, the Managing Director of GHK (Hong Kong) Ltd (GHK) briefed members on the objectives and findings of the Study as set out in LC Paper No. CB(1)230/04-05(05).

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27. Ms Miriam LAU declared that she was a member of the Port Development Council and the Chairman of the Port Development Advisory Group.

Port Cargo Forecasts (PCF)

28. Noting that the Study had projected the PCF to be some 30 million twenty-foot equivalent units (TEUs) by the middle of next decade, Ir Dr Raymond HO queried whether such forecast had taken into account the Pan-Pearl River Delta (PRD) Regional Co-operation and Development Framework Agreement entered by Hong Kong and Macao Special Administrative Regions as well as nine provinces and autonomous region; and the new strategic infrastructure such as the planned Hong Kong-Zhuhai-Macao Bridge.

29. In response, the Permanent Secretary for Economic Development and Labour (Economic Development) (PS/EDL(ED)) said that a new PCF model was being developed which deployed a more comprehensive methodology that took into account latest developments and data regarding the demand and supply of port facilities in South China, the competitiveness of HKP and the likely demand, and other transport infrastructure programmes in the region.

30. Ir Dr Raymond HO was also concerned about the reliability of data in coming up with the present PCF. Dr Jonathan BEARD of GHK referred to the different scenarios generated from the existing PCF model. These were contingent on a number of assumptions regarding the competitiveness of HKP as compared with neighbouring ports in the PRD. Whilst growth in the cargo base could be predicted with some degree of certainty, Dr BEARD however pointed out that projecting HKP's future competitiveness was more uncertain. He advised that in working out the different scenarios, the consultants had worked closely with the stakeholders in the port industry to collect core data, information on market trends and to develop measures to enhance the competitiveness of HKP. The impact of new infrastructure had also been assessed.

Through Cost and Terminal Handling Charges

31. Members noted that road haulage costs via Hong Kong, which was 53% higher than those via Shenzhen ports, were the principle competitive weakness of the HKP followed by terminal handling charges (THCs) in Hong Kong, which was 40% higher than those in Shenzhen ports.

32. Notwithstanding that the Administration had sought to review with the Guangdong authorities options for reducing haulage costs via HKP, Mr Fred LI was disappointed to note that the Administration or the Study was silent on measures to reduce THCs in Hong Kong. Echoing Mr LI's view, the Deputy Chairman was very concerned that the persistently high THCs had rendered HKP very uncompetitive.

33. Mr Jeffrey LAM remarked that the growth prospects of the cargo source were generally considered to be favourable. The throughput of river trade terminal (RTT)

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also recorded an increase. In order to sustain the competitiveness of HKP, it was necessary for the Administration to introduce measures to improve inland connectivity and reduce inland transport costs to HKP so as to capture more cargo source in the region. Mr LAM said that the Administration should also examine initiatives to attract cargo from the eastern part of Shenzhen to ensure HKP's success.

34. On mechanism for determining THCs, SEDL said that it was based on international practice and was a commercial matter between the shippers and the shipping lines. It was thus inappropriate for the Government to interfere with these commercial arrangements. The Government's role was to facilitate resolution of disagreements through regular dialogue. In fact, the Administration had met and liaised with the parties concerned recently to discuss, inter alia, the need to increase the transparency of the mechanism for determining THCs, and possible reductions in THCs following the recent adjustments in container handling charges.

35. Mr LEE Wing-tat was concerned whether there was adequate competition in the port industry. Notwithstanding the commissioning of Container Terminal 9, he queried why THCs still stood at high levels. He also remarked that due to high costs in Hong Kong, shippers might choose to use the terminal facilities in Shenzhen despite the fact that they were run by the same terminal operator in Hong Kong.

36. PS/EDL(ED) pointed out that the primary factor affecting shippers' choice of port between HKP and Shenzhen was related to costs. Cross-boundary trucking transport costs between PRD and Hong Kong were much higher than that to other ports in South China, and this was the major cause of cargo diversion away from Hong Kong. The Administration was examining means to reduce cross-boundary trucking cost in consultation with the local trucking sector. A number of Mainland regulatory measures had been identified as key contributing factors, including the "4-up-4-down rule"¹, "1-truck-1-driver rule", licensing arrangement, and inland customs services (collectively referred to as the "trucking cost issues"). If all these issues could be addressed, it was estimated that cross-boundary trucking cost could be reduced by US\$100-120 per 40-foot container. Dr BEARD re-iterated that trucking costs were the biggest factor affecting HKP's competitiveness and that it was absolutely crucial that nothing distracted from addressing this issue. Efficiency had to be raised and the costs of cross-boundary trucking had to be reduced. This was the critical issue in the short-term and the issue where the government had a role to play.

37. Mr KWONG Chi-kin said that cross-boundary truck drivers generally welcomed the proposed relaxation of the "4-up-4-down rule" and "1-truck-1-driver rule". However, he relayed the request of truck drivers that the licence to operate cross-boundary container trucks in the Mainland should be granted to individual drivers instead of to the trucking companies employing the drivers. In this regard, the Chairman pointed out that such request might not be agreeable to the companies

¹ The "4-up-4-down rule" has been in force for some years now, but it originated from a need to control the container itself, which is a commodity. "4-up-4-down" means the driver, the truck, the trailer and the container itself, all four go up, and the same four come down.

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concerned.

38. Mr SIN Chung-kai urged the Administration to expedite the liaison with the Guangdong authorities in implementing the proposed relaxation. He proposed that if necessary, further negotiation could be proceeded through the Hong Kong Guangdong Cooperation Joint Conference under the leadership of the Chief Secretary for Administration.

39. PS/EDL(ED) advised that the Administration had approached the Guangdong authorities to discuss the trucking cost issues in the context of the Hong Kong-Guangdong Cooperation Joint Conference. Since the proposed initiative involved a number of departments of the Guangdong government, it took time for the authorities to consider the requests. She added that the Administration was aware of the concerns expressed by cross-boundary truck drivers. The Administration would continue to liaise closely with the industry players in pursuing measures to reduce cross-boundary trucking cost.

Port expansion

40. Mr Abraham SHEK commented that the draft executive summary was not comprehensive enough and lacked essential information on certain important aspects. On the expansion of container terminals, for example, it did not provide information on the type, number and capabilities of the berths to be built with reference to the latest technology in vessel construction. As far as he understood, the berths in Shenzhen ports were much deeper than that of Hong Kong. Besides, it had also failed to address issues like rationalization of Kwai Chung Container Port (KCCP), and better utilization of RTT and existing resources etc.

41. In response, Dr Jonathan BEARD of GHK pointed out that the draft executive summary was necessarily brief, however the Study had reviewed changes in vessel technology and planning parameters for Container Terminal 10 (CT10). Nevertheless, he stressed the importance of implementing the recommended super-connectivity initiative (SCI) which focused on reducing transport costs between HKP and the cargo base. The success of SCI would form the basis for building CT10. In addition, the Study also recommended a Power Port Initiative (PPI) which focused on KCCP and a Port Rationalization Initiative (PRI) which emphasized long-term berth rationalization measures to enhance productivity growth of KCCP further. The objectives of these initiatives was to maximize the efficiency of existing facilities and provide a sound foundation for port expansion. Details of SCI, PPI and PRI were set out in paragraph 4.2.1 of the Study's draft executive summary annexed to CB(1)230/04-05(04). On vessel technology and berth design, Mr Michael CHARLMERS, Director of Scott Wilson Ltd supplemented that the Indicative Master Plan provided for three new berths by the first half of the next decade and three more over subsequent years. The arrangement of berths and terminals should provide flexibility in berthing the longest vessels which were expected by then to have capacities of at least 12 000 TEU (increased from the current maximum of around 8 000 TEU), lengths of up to 400 metres or possibly a little more, and required depths

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of up to 17 metres.

42. Referring to the table outlining the position of Hong Kong relative to its immediate competitors in terms of port service, Mr WONG Ting-kwong cautioned that HKP had a competitive edge over the Shenzhen ports in only two areas: port service quality and regulatory environment. Since the service quality of Shenzhen ports would continue to converge with that of Hong Kong and the regulatory environment was also improving fast, he was worried that the leading position of Hong Kong in the provision of port services would soon be taken over by Shenzhen. To sustain the development of port services, Mr WONG highlighted the importance of maintaining a good working relationship with the Central Government. He said that if necessary, he could help reflect the need of Hong Kong to the relevant Mainland authorities. In response, PS/EDL(ED) said that the Administration would endeavour to ensure that the immediate and long-term initiatives could be taken forward expeditiously in a smooth manner.

VI Protection of outbound travellers

(LC Paper No. CB(1)230/04-05(06)

- Information paper provided by the Administration, together with a submission from TIC)

43. At the invitation of the Chairman, the Commissioner for Tourism (C for Tourism) briefed members on the Administration's policy and efforts in the protection of outbound travellers. On calls for the Government to require travel agents to take out professional indemnity insurance (PII) on a mandatory basis so as to strengthen protection of outbound travellers, she said that it might not be the best way to achieve the purpose. PII provided cover to travel agents for certain types of claims made against them by third parties under civil law. Where there was wrongful or negligent acts done or acts omitted by a travel agent, he could be sued and PII provided financial protection to the travel agent to meet the costs of legal action and any damages that might become payable by it. In case of an accident, the outbound travellers concerned could only get compensation if they could prove that the accident was caused by the negligence of the travel agent. While the Government would not require the travel agents to take out PII on a mandatory basis, it would remind them to procure such insurance in accordance with their operational risk and needs. She understood that the Travel Industry of Hong Kong (TIC) was drawing up best practices for travel agents in organizing outbound tours and guidelines for tour escorts, which, she believed would help the travel industry to secure PII with the insurance industry on better terms.

44. C for Tourism further advised that the Travel Industry Compensation Fund (TICF) provided first-line assistance to the injured travelers of a package tour in a foreign destination when there was an accident. Under the Fund, expeditious ex gratia payment would be arranged to tour group members involved in an accident. If a traveller had successfully claimed, after the TICF ex gratia payment, for compensation and damages in respect of the relevant expenses incurred in relation to

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the travel accident (e.g. from his insurance cover), he was required to refund the amount of the ex gratia payment or the amount of the damages or compensation so paid, whichever was the less. As regards travel insurance taken out by individual outbound travelers, C for Tourism remarked that according to the Hong Kong Federation of Insurers, it was estimated that about 40 to 50% of people travelling outside Hong Kong took out travel insurance policies for their own protection. In view of this, the Administration would continue to educate the public the importance of taking out travel insurance instead of mandating them to do so.

45. To supplement, Mr Joseph TUNG, Executive Director of TIC provided a summary of the Jiufen accident happened in Taiwan on 18 October 2004, which included actions taken by the TIC, compensation and consolation payments to the affected parties, preliminary investigation results of the accident. Mr TUNG also said that to reduce operational risks and enhance protection for outbound travelers, TIC had promulgated two safety-related documents for the reference of the member agents in conducting outbound tours. He highlighted the “Safety checklist for package tours” which had emphasized transport arrangements such as conditions of tour coach and tour coach driver since most accidents of package tours were coach-related. Members also noted that according to “Outbound tour operators’ requests for partners outside Hong Kong” issued by TIC to its member agents, Hong Kong tour operators should request their partners outside Hong Kong to ensure that written confirmation was provided by the land operators and service providers that they had taken out insurance to cover travelers pursuant to local legal requirements.

Professional Indemnity Insurance

46. Mr Fred LI considered it necessary for travel agents to take out PII on a mandatory basis to protect outbound travellers of package tours. Whilst understanding that the premium for PII for individual travel agents would be quite high, he proposed that TIC should set up a pool of fund and take out PII for its member agents collectively.

47. Mr Ronny TONG cautioned that in purchasing PII collectively by TIC, some travel agent had expressed worries about the need to increase contribution to TICF and possible wastage. He considered it more effective for individual outbound travellers to take out their own insurance cover.

48. Mr Ronnie HO, Chairman of TIC informed members that since mid 2003, TIC had been conducting discussions with the insurance industry on the issue of PII. Due to the adverse impact of the Severe Acute Respiratory Syndrome, the premium for PII was high but the scope of protection was not wide enough. The TIC was examining possible options, including setting up a basic insurance scheme to provide general coverage while individual member agents could take out such insurance in accordance with their operational risks and needs. Mr HO said that the TIC would also like to propose for the Administration’s consideration to use part of the TICF to cover claims against travel agents on top of its present usage.

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49. C for Tourism responded that if proper risk management measures were introduced to enhance safety awareness and service quality of individual local land operators, the premium for PII could be significantly reduced. Indeed the travel industry was working on measures along this direction. The two documents promulgated recently by the TIC among its member agents could help them secure PII with the insurance industry on better terms. On TIC's suggestion to expand the scope of TICF, C for Tourism said that while the Administration would examine the proposal carefully when receiving it, she remarked that the TICF aimed at providing the first-line financial assistance to the travellers concerned instead of serving as a risk management measure for travel agents.

50. Mr Fred LI was very concerned about safeguards for outbound travellers of package tours if the place of visit did not mandate land operators and service providers to take out insurance. In such circumstance, the Hong Kong travel agents concerned should be required to take out PII. The Chairman shared his view. He pointed out that even if the local law required the land operators and service providers to take out insurance cover, the level of financial protection might be far less than the normal amount of compensation received by the affected parties in Hong Kong.

51. On the requirements to take out insurance by local land operators and service providers, Mr TUNG of TIC explained that it really depended on the local law requirements. If there was no such requirement, it was difficult for the travel agents concerned to request its partners outside Hong Kong to enforce the requirement. On the other hand, it was also difficult for the travel agents concerned to shoulder the liabilities alone.

52. SEDL remarked that like all commercial operations, travel agents should be responsible for adopting effective risk management measures to protect themselves from the possibility of liability claims. Like many popular tourist destinations in the region such as Australia and Singapore, Hong Kong had no intention to require the travel agents to take out PII on a mandatory basis. Nevertheless, the Administration would continue to remind the travel agents to procure such insurance in accordance with their operational risk and needs. It would also continue to educate the public the importance of taking out their own travel insurance according to individual needs. As the TIC was discussing with the insurance industry on the issue of taking out PII by travel agents, SEDL undertook to report to the Panel on the discussion result in due course.

53. Mr Howard YOUNG relayed that a majority of travel agents did not support the proposal for them to take out PII on a mandatory basis. Noting that some small travel agents had encountered problems in taking out PII, he enquired if special efforts could be made to assist them.

54. Mr Ronnie HO of TIC pointed out that broadly-speaking, the some 1 300 travel agents in Hong Kong were subject to different levels of operational risks. Those travel agents which would conduct outbound tours regularly were exposed to highest level of risks whereas the travel agents in the next level of risks were those

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which would organize resort or occasional reward tours. The small travel agents, on the other hand, were subject to least risks since the itineraries and other arrangements of the tours sold by them were fixed by the wholesale travel agents which would be held liable for damages when there was an accident. Notwithstanding that many travel agents had carried out their duties professionally in accordance with the service guidelines, Mr TUNG of TIC noted with concerns that travel agents were still subject to criticism whenever there was an accident. He urged for a set of comprehensive monitoring measures by which the performance of individual travel agents in particular upon the occurrence of incidents could be objectively evaluated.

Travel insurance taken out by individual outbound travellers

55. As only 40 to 50% of Hong Kong people took out insurance when they traveled outside their place of origin, Mr Howard YOUNG urged for measures to boost the percentage further. He suggested that the premium in taking out travel insurance could be made part and parcel of the tour fees unless the customers considered otherwise.

56. In response, Mr Ronnie HO of TIC pointed out that there were limitations for marketing staff of travel agents to advise their customers to take out individual insurance cover. According to the Insurance Companies Ordinance (Cap 41), only appointed insurance agent could provide advice to potential policy holder on matters related to the policy. As such, the staff could only give a brief introduction on the policy. In fact, the Insurance Authority (IA) had recently required frontline marketing staff of the travel agents to be licensed as appointed insurance agents. As the staff concerned only dealt with travel insurance, Mr HO urged the Administration to consider relaxing the requirements so that the staff concerned were only required to be well versed in matters relating to travel insurance rather than all types of insurance. In this connection, SEDL said that his office would try to assist the industry by exploring whether certain flexibility could be made with regard to IA's requirement

57. Mr Ronny TONG pointed out that under the general practice of civil law, affected parties in an accident of an outbound package tour could claim for damages either at the place of the accident or in Hong Kong. In fact, Hong Kong, only secondary to the United States of America and United Kingdom, had outperformed many places in handling legal claims against damages. To safeguard consumers' interests, Mr TONG called on the travel agents not to specify the condition that the customers could only claim for damages at the place of accidents when entering contracts with customers on package tours. Noting that most accidents of outbound tours were related to traffic accidents, Mr TONG further urged that in organizing outbound tours, the Hong Kong travel agents should partner with those operators or service providers with long-standing credibility and good track record on safety.

58. Mr Ronnie HO of TIC assured members that according to the service guidelines for outbound tour escorts issued by TIC to its member agents, tour escorts should monitor the service quality of the local land operators and put safety first during the journeys. They were also reminded regularly to pay close attention to the

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performance and behavior of tour coach drivers.

59. To conclude, the Chairman urged the Administration and TIC to continue their efforts in the protection of outbound travellers.

VII Any other business

60. There being no other business, the meeting ended at 1:05 pm.

Council Business Division 1
Legislative Council Secretariat
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