

立法會

Legislative Council

LC Paper No. CB(1)1563/04-05
(These minutes have been seen
by the Administration)

Ref : CB1/PL/TP/1

Panel on Transport

**Minutes of meeting held on
Friday, 18 March 2005, at 10:00 am
in the Chamber of the Legislative Council Building**

Members present : Hon LAU Kong-wah, JP (Chairman)
Hon Albert CHAN Wai-yip (Deputy Chairman)
Ir Dr Hon Raymond HO Chung-tai, S.B.St.J., JP
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon LAU Chin-shek, JP
Hon Miriam LAU Kin-ye, GBS, JP
Hon Andrew CHENG Kar-foo
Hon TAM Yiu-chung, GBS, JP
Hon Abraham SHEK Lai-him, JP
Hon LI Fung-ying, BBS, JP
Hon Tommy CHEUNG Yu-yan, JP
Hon WONG Kwok-hing, MH
Hon LEE Wing-tat
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon LEUNG Kwok-hung
Hon CHEUNG Hok-ming, SBS, JP
Hon Patrick LAU Sau-shing, SBS, JP

Member attending : Hon Albert HO Chun-yan

Public Officers attending : Agenda item IV

Mr Joshua LAW
Permanent Secretary for the Environment, Transport and Works

Ms Annie CHOI
Deputy Secretary for the Environment, Transport and Works
(Transport)³

Mr Clement LAU
Acting Principal Assistant Secretary for the Environment,
Transport and Works (Transport)²

Miss LUI Ying
Acting Assistant Commissioner for Transport/
Management and Paratransit

Miss Joyce CHAN
Senior Government Counsel
Department of Justice

Agenda item V

Dr Sarah LIAO
Secretary for the Environment, Transport and Works

Mr Joshua LAW
Permanent Secretary for the Environment, Transport and Works

Ms Annie CHOI
Deputy Secretary for the Environment, Transport and Works
(Transport)³

Mr Michael NG
Acting Principal Assistant Secretary for the Environment,
Transport and Works

Mr Blake HANCOCK
Chief Superintendent (Traffic Headquarters)
Hong Kong Police Force

Mr Simon IP
Chief Inspector (Traffic Headquarters)
Hong Kong Police Force

Mr K K LAU
Deputy Commissioner for Transport/
Planning and Technical Services

Mr J P CHEUNG
Principal Transport Officer/Urban
Transport Department

Agenda item VI

Mr Thomas CHOW
Deputy Secretary for the Environment, Transport and Works
(Transport)1

Ms Ernestina WONG
Principal Assistant Secretary for the Environment, Transport and
Works (Transport)5

Mr MAK Chai-kwong
Director of Highways

Mr Adrian NG
Project Manager/Major Works
Highways Department

Mr K B TO
Chief Engineer/Transport Planning
Transport Department

**Attendance by
invitation**

: **Agenda item IV**

New Hong Kong Tunnel Company Limited

Mr Simon CHENG
Operations Manager

Ms Becky FUNG
Project Manager

Ms Elaine CHEN
Legal Advisor

Ms Kathy CHAN
Consultant

Agenda item V

The Kowloon Taxi Owners Association Ltd.

Mr YUM Tai-ping
Chairman

新界的士司機權益大聯盟

梁于榮先生
理事

全港職業司機反對衝燈加重扣分大聯盟

梁靜珊女士
秘書

Hong Kong, Kowloon and N.T. Public & Maxicab Light Bus
Merchants' United Association

Mr LEUNG Hung
Chairman

Right Hand Drive Motors Association (HK) Ltd.

Mr Paul LAW Siu-hung
Founder Chairman

Institute of Advanced Motorists Hong Kong

Dr MONG Hoi-keung
Vice-Chairman

Mixer Truck Drivers Association

Mr CHAN Sam-choi
Secretary

Association of N.T. Radio Taxicabs Ltd.

Mr LAM Kwai-keung
Chairman

United Friendship Taxi Owners & Drivers Association Ltd.

Mr AU-YEUNG Kan
Chairman

中重型貨車關注組

Mr LAI Kim-tak
Chairman

的士權益協會有限公司

Mr WONG Tao
Representative

四海的士車主司機聯會有限公司

Mr LAU Kim-wan
Representative

Hong Kong Taxi Association

Mr LAI Hoi-ping
Chairman

Container Truck Drivers' Union

Mr YU Kwok-on
Chairman

Hong Kong Container Tractor Owner Association Limited

Mr CHAN Fu-chuen
Director

Rambo Taxi Owners' Association Ltd.

Mr LEE Chi-leung
Chairman

Lok Ma Chau China-Hong Kong Freight Association

Mr Stanley CHAING
Chairman

Hong Kong Automobile Association

Mr Wesley WAN
Vice-president

HK Public-Light Bus Owner & Driver Association

黎銘洪先生
秘書長

The Hong Kong Taxi & Public Light Bus Association Limited

Mr TRAN Chau
Chairman

Hong Kong Driving Instruction Club

Mr Albert LAI
Vice-Chairman

Kowloon Truck Merchants Association Ltd.

Mr LEUNG Kun-kuen
Chairman

Taxi Dealers & Owners Association Limited

Mr NG Kwan-sing
President

Public Light Bus General Association

萬振輝先生
副主席

Urban Taxi Drivers Association Joint Committee Co. Ltd.

Mr KWOK Chi-piu
Chairman

Motor Transport Workers General Union

Mr LI Wing-sang
Chairman

Motor Transport Workers General Union
(Public Light Bus Branch)

Mr AU-YEUNG Ming
Director

Hong Kong Kowloon Taxi & Lorry Owners' Association
Limited

Mr TSE Ming-chu
Representative

Hong Kong Logistics Association

Mr Stephen CHENG
Executive Vice President

Federation of Hong Kong Transport Worker Organizations

譚偉濤先生
代表

Individual

Ms HUI Wai-mui

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

Staff in attendance : Ms Connie FUNG
Assistant Legal Advisor 3

Ms Anita SIT
Senior Council Secretary (1)9

Miss Winnie CHENG
Legislative Assistant (1)5

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- I Confirmation of minutes and matters arising**
(LC Paper No. CB(1)1082/04-05 - Minutes of the meeting held on
2 February 2005)

The minutes of the meeting held on 2 February 2005 were confirmed.

II Information papers issued since last meeting

2. No information paper had been issued since last meeting.

III Items for discussion at the next meeting scheduled for 22 April 2005

- (LC Paper No. CB(1)1096/04-05(01) - List of outstanding items for
discussion
LC Paper No. CB(1)1096/04-05(02) - List of follow-up actions

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LC Paper No. CB(1)1047/04-05(01) - A letter from Hon WONG Kwok-hing requesting the Panel to follow up the employment arrangements for franchise bus drivers)

3. Members noted that the Administration had proposed the following items for discussion at the next meeting scheduled for 22 April 2005:

- (a) Return toll charge for taxi passengers using Harbour Crossings;
- (b) Miscellaneous amendments to subsidiary legislation under the Road Traffic Ordinance;
- (c) Progress update on the Intelligent Transport System;
- (d) 94TB-Sha Tin New Town, Stage 2 – Pedestrian and Cycle Subways at Lion Bridge;
- (e) 705TH – Sha Tin New Town, Stage 2 – Trunk Road T4; and
- (f) Area Traffic Control and Closed Circuit Television Systems for Tuen Mun and Yuen Long Districts.

4. Members agreed that items (b) and (c) be tentatively scheduled for discussion on 22 April 2005. As regards items (a) which involved a legislative proposal and items (d), (e) and (f) which involved funding proposals, members agreed that the Administration should first submit information papers on these four items to the Panel for consideration by circulation. Should it be considered necessary by members upon perusal of the information papers, arrangements would be made for the Panel to discuss the item(s) at a future meeting.

(Post-meeting note: During the discussion under agenda item IV, members agreed that the Panel should further discuss the toll increase of the Eastern Harbour Crossing and related issues at the meeting on 22 April 2005. Also, due to insufficient time, item VI on “Northwest New Territories Traffic and Infrastructure Review 2004/Reconstruction and improvement of Tuen Mun Road” was not discussed and was thus deferred to the meeting on 22 April 2005. In view of the heavy agenda for the meeting on 22 April 2005, the Panel Chairman subsequently advised that an information paper on item (c) above should be provided by the Administration for the Panel’s consideration by circulation. The notice of the meeting on 22 April 2005 was issued vide LC Paper No. 1153/04-05 dated 23 March 2005.)

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Employment arrangements for franchise bus drivers and safety of bus operation

5. Members noted the letter from Mr WONG Kwok-hing dated 2 March 2005 requesting the Panel to follow up on the employment arrangements for franchise bus drivers. In response to the Chairman's question on whether the issue involved transport policies and hence fell within the purview of the Panel, Mr WONG Kwok-hing explained that in recent years, with the Kowloon Motor Bus Company (1933) Limited taking the lead, some franchised bus operators had changed the employment terms for their bus drivers to contract terms and in some cases, the contract period only lasted for one year. Further employment of bus drivers upon expiry of their employment contracts was subject to review, resulting in a lack of job security for bus drivers. He stressed that the new employment arrangements posed immense psychological pressure on bus drivers, which in turn would directly affect the safety of franchised bus operation. He therefore suggested that the Transport Panel should follow up the issue.

6. Members agreed that the issue should be placed on the Panel's list of outstanding items for discussion. Ms Miriam LAU opined that the Panel should discuss the issue with the Administration from the angle of ensuring the safety of franchised bus operation.

IV Toll increase of the Eastern Harbour Crossing

- (File Ref.: ETWB(T)CR1/3/4651/92 - Legislative Council Brief on Arbitration on the toll increase of the Eastern Harbour Crossing
- LC Paper No. CB(1)1127/04-05(01) - A letter from New Hong Kong Tunnel Company Limited
- LC Paper No. CB(1)1127/04-05(02) - Extracts of the relevant statutory provisions)

7. The Chairman said that the Board Chairman of New Hong Kong Tunnel Company Limited (NHKTC), who was currently out of town, had requested that the Panel's discussion of this item be deferred by one week so that he could personally attend the meeting. However, in order to enable the Panel to discuss the matter at the earliest opportunity and follow up on the related issues, he had decided that the meeting should be held as scheduled. If considered necessary, the Panel might arrange another meeting with the Board Chairman of the Company.

8. The Permanent Secretary for the Environment, Transport and Works (PS/ETW) said that the Administration was very disappointed at the outcome of the arbitration on the toll increase of the Eastern Harbour Crossing (EHC) and was extremely concerned about the toll increase. However, the Administration had to respect the law and the result of the arbitration. After the arbitrators' Award was received in late January 2005, the Administration had had some discussions with NHKTC and had requested the company to reduce the level of increase, postpone the effective date of the increase, or implement the new tolls by stages, taking into account the public

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acceptability and affordability of the magnitude of the toll increase. To the Administration's disappointment, NHKTC only agreed to slightly defer the implementation of the toll increase.

9. PS/ETW further said that the Transport Department (TD) would closely monitor the traffic condition at Cross-Harbour Tunnel (CHT) after the new tolls had taken effect. TD would disseminate information to motorists and make announcements to encourage the public to use public transport and to avoid using CHT during peak hours as far as possible. The Administration had been exploring various possible fiscal and traffic management measures that would help better distribute the cross harbour traffic, and had been listening to views of the community. However, at this point in time, the Administration was far from reaching any decision on any of the measures under study, including the reported option of buying out the franchises of both EHC and Western Harbour Crossing (WHC). In considering the viability of these measures, the Administration would certainly taken into account the likely financial implications and the need to preserve the value of public assets. The Administration would maintain an open mind and continue to listen to views from the community and maintain a dialogue with the tunnel franchisees.

10. Ms Becky FUNG, Project Manager of NHKTC said that the Board Chairman of NHKTC would very much wish to attend this meeting but could not do so due to the need to attend a conference in Europe. She conveyed the apology of the Board Chairman to Members. Ms FUNG then highlighted the following points –

- (a) This was the second toll increase of EHC since the franchise was granted to NHKTC 19 years ago. Whilst the Company had the responsibility to serve the public, it also had the responsibility to safeguard shareholders' interest by providing shareholders with reasonable but not excessive remuneration as stipulated in the Eastern Harbour Crossing Ordinance (EHCO) (Cap. 215).
- (b) It was common ground between the Government and NHKTC that an appropriate yardstick for measuring the reasonableness of the remuneration to a company engaged in a Build-Operate-Transfer (BOT) project was its internal rate of return (IRR) on equity after tax over the life of the franchise. In both the arbitrations in 1997 and the present one, the arbitrators determined that the band of reasonable remuneration for NHKTC was an IRR between 15% and 17% over the life of the franchise. The two arbitrators in the present arbitration also determined that to achieve the reasonable remuneration, it was necessary and appropriate to increase the tolls for private cars and taxis by \$10 from \$15 to \$25 with corresponding increases for other vehicles.
- (c) The arbitration hearings were held in September 2004 following the Government's rejection in July 2003 of NHKTC's application in September 2002 for a HK\$5 toll increase for private cars (and proportionate increases in other vehicle categories) to take effect from 1

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January 2003. Having considered all relevant factors and taking into account the elapse of time, the arbitrators awarded a higher toll increase of HK\$10 than NHKTC's application in 2002 so that the Company could restore and maintain a reasonable level of remuneration before the expiry of the franchise in 2016.

- (d) In 1986, NHKTC invested over \$2.2 billion in building the tunnel. For the first nine years of operation, shareholders were not provided any return on their investment. It was only from the tenth year onwards that the company was in a position to distribute dividends to its shareholders.
- (e) Hong Kong upheld the rule of law, which was one of the pillars and core value contributing to Hong Kong's success. The arbitration result should be respected. Under the BOT mode of partnership, the Government had promised that NHKTC was entitled to reasonable but not excessive return on its investment. If the company was disallowed to pursue this objective, Hong Kong's business environment would be seriously undermined and private enterprises would become hesitant to undertake similar infrastructure projects in future, thereby jeopardizing Hong Kong's long term development.
- (f) EHC had provided the people of Hong Kong a safe, reliable and efficient service for crossing the harbour since its opening in September 1989. The entire EHC team looked forward to continuing to do so in the coming years.

11. Mr Jeffrey LAM said that Hong Kong had been under an economic downturn for most of the period since the last toll increase of EHC in 1998 and the economy only started to recover this year. In recent years, there had been strong views in the community that travelling expenses were high, constituting a significant portion of the daily expenses of Hong Kong people. The Liberal Party reckoned that NHKTC was entitled under the law to submit the question of the variation of tolls to arbitration when no agreement could be reached with the Government and the Liberal Party respected the result of the arbitration. Since the arbitration result was released, there had been very strong feedback from the community on the magnitude of the toll increase. He earnestly requested the Administration and NHKTC to explore feasible measures to alleviate the impact of the toll increase on the public.

12. Mr Simon CHENG, Operations Manager of NHKTC, said that the company appreciated the response of the public to the toll increase. He stressed that the company was entitled to a reasonable but not excessive remuneration for its investment in the tunnel as provided for under the EHCO. In order to achieve this level of return, it was necessary for the tunnel tolls for private cars and taxis to be increased by \$10 with corresponding increases for other vehicles. The extent of increase would even be greater if implementation of the toll increase was further deferred. The arbitrators and NHKTC were of the same view that it would be in the interest of the public to increase tunnel toll in a progressive manner. The rule of law

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and the spirit of contract were pillars for Hong Kong's continued success. These principles should not be compromised for short term benefits, lest Hong Kong's long term development would be jeopardized and the business environment undermined. As regards the offering of concessions, he remarked that if such concessions resulted in reduction of the company's revenue, a greater extent of toll increase in future would be necessary in order to achieve the company's entitled return as determined in the arbitration.

13. Mr Jeffrey LAM said that recently, many public utility companies had tempered the extent of increase in tariffs or fares having regard to the prevailing economic conditions and the community's sentiment. He urged the company to seriously consider reducing the extent of toll increase and/or provide toll concessions etc., which he considered would be conducive to achieving a harmonious social atmosphere.

14. Ms Becky FUNG undertook to convey Mr LAM's request to the Board of NHKTC for consideration but she could not give any decision at the meeting. She added that tunnel tolls together with vehicle licence fees and vehicle insurance premiums accounted for 1.5% of the Consumer Price Index.

15. Given that Ms FUNG agreed to relay the concerns of the community to the Company's Board for further consideration, the Chairman enquired whether the Administration would defer the gazettal of the revised toll schedule. PS/ETW said that the Government's position was that there was no justification for a toll increase. The Administration considered that the current level of IRR of 13.64% was already a reasonable but not excessive remuneration to NHKTC. Whilst the Government had rejected the toll increase application from NHKTC at the outset, it had to respect the outcome of the arbitration on the toll increase of EHC. Subsequent to the receipt of the Award, the Administration had requested NHKTC to reduce the actual level of increases, postpone the effective date of the increase or implement the new tolls by stages. After some discussions, NHKTC agreed to defer the toll increases for all vehicles from 3 April 2005 to 1 May 2005 and some other increases for empty taxis and light buses to 1 July 2005 and 1 October 2005 respectively. He noted from the meeting that the Company was prepared to reconsider the issue. The Administration would continue to discuss with the company, hoping that there would be a more favourable outcome, and would consider the gazettal arrangements thereafter.

16. Mr WONG Kwok-hing expressed grave disappointment at NHKTC's decision to implement the toll increase in accordance with the arbitrators' Award. He said that the toll increase would have the chain effect of inducing price increases in other sectors especially the public transport sector, hence adding to the financial burden of the public. He criticized the Administration for not having performed its role with due diligence on this matter, and opined that the Administration should come up with feasible measures to counter the toll increase of EHC. He asked when the Administration would put up concrete proposals for the Panel's consideration. He also questioned why the Administration only released information on the arbitrators' Award after the expiry of the appeal period. He considered this arrangement disrespectful to the Legislative Council.

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17. Mr WONG Kwok-hing further said that he had met with the Deputy Secretary for the Environment, Transport and Works (Transport)³ on 17 March 2005, and was informed by her that the Administration was studying the option of buying out the franchises of both EHC and WHC and expected to come up with a proposal in a few months. However, in the afternoon of the same day, the Secretary for the Environment, Transport and Works (SETW) and the Secretary for Financial Services and the Treasury both spoke openly that the Administration was far from reaching any decision on any of the measures under study and there was no concrete plan yet. He thus sought clarification on the matter.

18. Mr WONG Kwok-hing also suggested that as CITIC Pacific Ltd. was the major shareholder of NHKTC, the Panel should invite the Chairman of CITIC Pacific Ltd. to the next meeting to further discuss the matter.

19. PS/ETW said that being an executive-led government, the decision as to whether an appeal should be lodged against the arbitrators' Award rested with the Administration. The Administration had performed its role on the matter with due diligence. Upon receipt of the Award, the Administration had actively considered whether the Government should lodge an appeal and meanwhile discussed with NHKTC to see whether and how the magnitude of the toll increase could be reduced. These courses of actions had taken some time. It was incumbent upon the Administration to report to the Legislative Council on the matter with comprehensive information on, inter alia, the courses of actions it had taken and its decision with regard to lodging an appeal against the Award or otherwise.

20. The Senior Government Counsel, Department of Justice said that arbitration was generally different from civil litigation. The Government, being a party to the arbitration, could only appeal on question of law arising out of the Award. If the arbitrators did not err on any point of law, there was no ground for appeal. In considering whether to appeal against the Award, the Administration had made an internal study and sought advice from the two Leading Counsel (one overseas and one local) who represented the Government in the present arbitration on whether there was ground for appeal and the merits of an appeal against the Award. The two Leading Counsel jointly advised that the arbitrators had not made any error on points of law. The Administration therefore decided not to appeal.

21. As regards future actions, PS/ETW said that the Administration was very concerned about the uneven distribution of traffic among the three road harbour crossings at present and the traffic implications of the toll increase of EHC. The Administration would study various measures including the option of buying out the franchises of both EHC and WHC, the sale of CHT and others. In the past, the Administration had had some discussions with tunnel companies on the matter and found that it was not easy to reconcile certain major issues such as projections on the future tunnel throughput, cash flows etc. He stressed that each measure/option involved a lot of issues which might require expert advice at different stages of the examination process. As regards the time frame for reaching agreements with tunnel

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companies, he said that the Administration's position in any possible negotiation with the tunnel companies would be prejudiced if it were to set a deadline on the matter. Besides, the Administration must exercise great care if such negotiation involved any sensitive information relating to listed companies. He assured members that the Administration would report to the Panel at an appropriate timing.

22. Mr LAU Chin-shek expressed strong objection to the toll increase of EHC. He commented that the arbitrators failed to give due consideration on the effect of the toll increase on people's livelihood and the overall local economy as well as EHC's function in traffic diversion. He also expressed disappointment at NHKTC's response so far and commented that NHKTC was focusing on short term benefits as it failed to duly consider the overall and long term social and economic impact of the toll increase. He urged that the Chairman of CITIC Pacific Ltd. to seriously reconsider the whole matter. Citing that many in the community had called on the Administration to consider buying out the franchises of the two private road harbour crossings as their usage was far from optimized, he asked what longer term measures the Administration had in mind to address the anticipated traffic problems arising from the substantial toll increase of EHC. He also asked whether there were any objective indicators based on which the Administration would decide the appropriate traffic management measures to address the aggravated traffic congestion at CHT after the toll increase of EHC had taken effect.

23. PS/ETW said that in examining any possible approach to achieving a more balanced traffic distribution among the three road harbour crossings, the Administration would take into account the following considerations –

- (a) it should bring about overall benefit to the public;
- (b) it should protect the General Revenue;
- (c) it should make commercial sense to the franchisee;
- (d) it should help achieve the traffic management objective, i.e. a more balanced traffic distribution among the tunnels;
- (e) there should be a fair valuation of the road harbour crossings, especially the CHT, as it was a valuable asset of the public;
- (f) it should be accompanied by a toll adjustment mechanism that is acceptable to the public, the Government and the tunnel operators; and
- (g) an institutional framework has to be worked out for the management of the three tunnels in a cost-effective and efficient manner.

The above considerations involved very complicated financial, administrative and legal issues and the Administration needed to examine in detail the merits and demerits of any possible option. PS/ETW further said that once the toll increase of

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EHC had taken effect, TD and the Police would closely monitor the traffic condition and TD would activate its Emergency Transport Coordination Centre. If necessary, special traffic control measures would be implemented. He took the opportunity to encourage the public to use public transport and avoid using CHT during peak hours as far as possible.

24. In response to Mr LAU Chin-shek's further question on the specific measures the Administration would take to address the aggravated traffic congestion at CHT after the toll increase of EHC had taken effect, PS/ETW said that apparently, given its toll level and geographical location, patronage of CHT would continue to be the highest. The Administration would examine various measures that might achieve more even traffic distribution among the three road harbour crossings. Whilst one possible measure was to raise the overall tolls of CHT as suggested by some in the community, the Administration's present position was that this measure would be considered only if other measures failed to achieve the traffic diversion objective. However, the Administration would be prepared to explore this option if Members and the public were of the view that it could be considered.

25. Mr LAU Chin-shek stated that he had not suggested raising the tolls of CHT.

26. Mr CHENG Kar-foo recalled that since the opening of WHC, Members had repeatedly urged the Administration to explore viable measures to achieve more balanced distribution of traffic among the road harbour crossings. The Administration's response so far gave him the impression that there had been no progress at all in this regard. He pointed out that the daily traffic throughput of the three harbour crossings was some 250 000 vehicles in total. According to some academics and economists, assuming that each vehicle paid \$20 each time using any of the tunnels, EHC and WHC could easily achieve an IRR of 10% to 12%. Given that CHT had an edge over EHC and WHC given its location, to achieve the objective of balancing the traffic distribution among the tunnels, it was necessary for the Administration to consider cross subsidy among the tunnels. Other major cities including Shanghai and New York were adopting this approach. The Administration should have initiated discussion with the tunnel companies on the matter at a much earlier time. Now that given the arbitration outcome, the Administration's negotiation power had much weakened.

27. Mr CHENG Kar-foo also criticized that the Administration indeed disappointed the public over the matter. The procrastination of the Administration had caused the public to have paid very high prices in terms of the time wasted in traffic congestion. Even the day before this meeting, the Administration was still telling the public that it was far from reaching any decision on any of the measures under study. He opined that the Administration must be decisive and come up with viable options for discussion by the community. Cautioning that the toll increase of the Tate's Cairn Tunnel would probably be put to arbitration and the Administration might face a similar arbitration outcome, Mr CHENG asked the Administration to give clear indication as to what measures or options it would pursue.

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28. PS/ETW said that as revealed in an earlier paper provided to the Panel (LC Paper No. CB(1)1912/03-04(26)), the Administration had had discussions with the Western Harbour Tunnel Company Limited about possible approaches to achieving a more balanced traffic distribution among the three road harbour crossings since 2001. The principles he had cited earlier on were those the Administration all along followed in pursuing the matter. Whilst the Administration would like to see the discussion to come to fruition, it turned out that there were major differences in some of the fundamental parameters and assumptions held by the two sides, and it was not easy to reconcile the differences. Hence there had been limited progress on the matter. However, the Administration reckoned that the problem of uneven distribution of traffic among the road harbour crossings needed to be addressed. Buying back the ownership of WHC and EHC was one option. Other options included selling CHT to the major shareholder of EHC and WHC, extending the period of the BOT franchises of the two tunnels, and using the revenue of CHT to subsidize the users of the other two tunnels, etc. The Administration would actively examine the various options with an open mind.

29. Mr CHENG Kar-foo said that the Democratic Party in 2001 had proposed to the Administration to establish a Tunnels and Bridges Authority. Now the Administration only stressed that there were great differences between the Administration and the tunnel operators on certain important assumptions. Given the high possibility that the tunnel operators would not accept Government's buy-back offers, the Administration should work out alternatives, such as building the fourth cross harbour tunnel or widening CHT etc., to address the congestion problem at CHT. He demanded that the Administration should put forward concrete proposals when the Panel further discussed the subject.

30. PS/ETW responded that buying back the ownership of EHC and WHC was one of the options. As he had already mentioned earlier on, there were other options that could be considered and were being actively considered by the Administration.

31. Mr TAM Yiu-chung said that NHKTC was not compelled to increase tolls to the same extent as determined in the arbitration. NHKTC's decision to raise tolls to such a large extent had already aroused strong resentment towards the company among the public. The company should take into account the effect on its image in this matter. The Administration had also exhibited a passive and evasive attitude. The substantial toll increase of EHC would likely lead to serious traffic congestion at CHT and fare increases of public transport services. There was a need for the Administration to prevent or alleviate the dire consequences. He referred to his letter to the Chairman notifying that he would move a motion under this agenda item. He read out the terms of the motion –

“本委員會對於東區海底隧道在完全漠視市民的負擔能力及意願下，瘋狂加價，表示震驚及強烈不滿。為此，本委員會促請政府審慎考慮市民大眾利益，盡快檢討三條過海隧道的收費，以改善三隧現時汽車分流失衡的情況。另外，本委員會要求政府在未來

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一年盡快積極研究有關收購東隧及西隧事宜的可行性，在此期間與隧道公司商討延遲東隧加價一年，並向立法會匯報有關研究結果。”

32. Mr TAM said that given the extensive and significant impact of the toll increase on the community, it was necessary for the Administration to prudently work out viable measures to address the problem. There was also a need to conduct a fundamental review of Government's policy on the provision and operation of tunnels, to which the present problems could be attributed. He appealed to members to support his motion.

33. Ms Miriam LAU said that the Panel had discussed the issue of evening out the traffic of the tunnels on several occasions in recent years. The Administration had all along procrastinated on the matter. It was incumbent upon the Administration to address the traffic problems now facing the community. With regard to the option of buying back the ownership of EHC and WHC, she was concerned that making such a move might set an undesirable precedent in that it might carry the implication that when the Government was not satisfied with the toll levels of an infrastructure facility operated under a BOT franchise, it would resort to acquiring control of the facility by buying out the ownership or other means. Moreover, the buying out option entailed huge financial implications on the public coffer. The Liberal Party therefore did not support this option. Hence, the Liberal Party would not support Mr TAM Yiu-chung's motion. She opined that the Administration should examine other viable measures together with the tunnel operators with the objective of evening out the traffic of the three road harbour crossings. Whatever the measure pursued, the rule of law and spirit of contract must be upheld and the Administration must not convey a wrong signal to the business community that it might or would back away from these principles.

34. Referring to the forecast of traffic diversion from EHC to CHT and WHT after the toll increase of EHC had taken effect as set out in Annex B of the Legislative Council Brief, Ms Miriam LAU expressed serious doubt about the reliability of the forecast. She anticipated that given the higher tolls of the other two harbour crossings, the transport trades would choose to use CHT as far as possible. Thus, she believed that the traffic throughput at CHT would increase by more than 3%. She asked what concrete measures the Administration had in mind to address the aggravated congestion problem at CHT after the toll increase of EHC.

35. PS/ETW said that the forecast of traffic throughput at the three harbour crossings was made by the Transport Department using relevant traffic modeling which took into account the toll elasticity of cross harbour traffic and other relevant factors. The Administration would closely monitor the actual traffic situation after the toll increase had taken effect.

36. Ms Miriam LAU stressed that the Administration should plan ahead to prepare for the highly probable acute traffic congestion at CHT. Highlighting that taxis and

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public light buses would not be able to transfer the toll increase in full to passengers, Ms LAU asked if NHKTC would consider reducing the toll increase for the transport trades having regard to their business circumstances.

37. Mr Simon CHENG agreed to convey Ms Miriam LAU's request for reducing the toll increase for those vehicles operated for business purposes to the Board of Directors of NHKTC for consideration. He however remarked that implementation of such a measure would have implications on the future toll adjustments. Mr CHENG further said that there was also a common understanding between the Government and the NHKTC that the tunnels tolls should be adjusted in a progressive manner and at appropriate intervals. As the construction of EHC required substantial capital investment, the Government had undertaken to provide reasonable but not excessive return for the operator for its investment and this undertaking was stipulated in the EHCO. At the time of the investment was made, the interest rate was very high. The franchise period lasted for 30 years and in the first nine years, shareholders of NHKTC had received no dividend at all. According to the toll adjustment schedule of NHKTC, the tolls of EHC should have been increased to \$25 (for private cars and taxis) in 2003. In both the arbitrations in 1997 and the present one, the arbitrators determined that the level of reasonable but not excessive remuneration for the NHKTC was an IRR on equity after tax of between 15% and 17% over the life of the franchise. It was unfair for the Administration and Members to criticize the company that it was seeking to obtain excessive return when the company only implemented the toll adjustment according to the arbitrators' Award. He appealed to Members for understanding of the company's position.

38. Ms LI Fung-ying referred to the Administration's assessment on economic implications of the toll increase of EHC as set out in Annex B of the LegCo Brief in which it was stated that "Given that tolls for using the EHC constitute an insignificant proportion of average household spending, EHC's toll increase would have a minimal lifting effect on the Consumer Price Index.". She expressed reservation on the assessment. She shared some other members' concern that the toll increase would have the effect of inducing the price increases in other sectors affecting people's livelihood. She sought details on the basis of the Administration's assessment.

39. Ms LI Fung-ying also commented that whether the toll increase was justified would be fairly judged by the public. What was important was whether NHKTC had given due regard to its corporate social responsibility. The company was earning profits and would attain an IRR of 13.64% without toll increase over the franchise period. Such an IRR was relatively high among similar enterprises under prevailing economic conditions. She urged the company to seriously consider reducing the toll increase giving particular regard to the financial hardship faced by many local workers at present.

40. PS/ETW advised that the assessment on the economic implications of EHC's toll increase was made by the Government Economist. He agreed to provide the details of the assessment to members after the meeting. As regards members' concern that the toll increase would induce fare increases of public transport services,

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he said that this was also an important concern of the Administration. While no such application had been received at the moment, if any such application was received, the Administration would carefully consider the application according to the relevant prescribed mechanism, taking into account the justification for the proposed increase, the financial position and the service performance of the corporation concerned, changes in operating cost and public affordability etc.

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41. Ms LI Fung-ying requested the Administration to also provide an assessment on whether the toll increase would induce fare increases of public transport services and the overall impact on Hong Kong people's livelihood.

42. Mr Albert CHAN said that NHKTC was in extremely good financial position. The IRR from 1986 to 2003 was 8.5% and in each year from 2001 to 2003, it earned a profit after tax over \$200 million. Under the prevailing economic conditions, the company had already been earning more than a reasonable return. Yet, the company still sought to implement substantial toll increases making use of the relevant provisions in the legislation to justify the toll increase. It was thus understandable that the public in general were highly discontented with such commercial behaviour. The LegCo Members who had supported the passage of the relevant legislation were somehow responsible for the dire consequence today. With regard to the buy-back option, he opined that the Administration could finance the buy back by issuing bonds instead of direct disbursement of public funds for the purpose. Given the very good business prospect of the road harbour crossings, such government bonds would be well received. He also suggested that as a counteracting measure against NHKTC's toll, the Administration might substantially reduce the CHT tolls during the non-peak hours to compete away some traffic from EHC.

43. On the buy back option, PS/ETW said that as reminded by some Members, the relevant operators had been granted a franchise according to law, and it would therefore require discussion between the Government and the franchisees to see if some reasonable conditions could be agreed upon. Besides, as the existing franchise already provided a toll adjustment mechanism for the franchisee, it would still require the cooperation of the franchisee to work out a new mechanism for toll adjustment which was acceptable to both parties. It could be envisaged that it would not be easy for both parties to come to agreement and the negotiation would be a very complicated process. On Mr Albert CHAN's suggestion of reducing CHT tolls during non-peak hours, he said that the Administration could consider the suggestion but remarked that as the present problem was traffic congestion at CHT during peak hours, the reduction of CHT tolls during non-peak hours might not be an effective measure for resolving the problem.

44. Mr Albert CHAN further asked whether the Administration could acquire the franchise of EHC on grounds of public interest. PS/ETW said that Hong Kong upheld the rule of law and the spirit of contract, which were very important for maintaining a good business environment. He could not see how the Administration

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could use any public interest reason to unilaterally acquire the operating right of a private company which had been given a franchise to operate a tunnel. He however appreciated members' intention of assisting the Administration to garner more chips for its negotiation with tunnel franchisees.

45. Mrs Selina CHOW said that the Legislative Council should look at the issue from a balanced perspective. Indeed when NHKTC invested \$2.2 billion in the EHC project, the interest rate was as high as 20%. The company originally only asked for a \$5 increase to take effect in 2003, but this was rejected by the Administration. At the then discussion of the Panel on the toll increase application, it was understandable that members in general did not support the application in view of the need to safeguard consumers' interest. It was also natural for the company to submit the toll increase application to arbitration as provided under the EHCO. Although the arbitrators' Award was not welcomed by consumers, it was an outcome of due process in full compliance with the law. She considered that the criticisms made by some members against the company were not fair to the company. She however hoped that the company could appreciate the concerns of members about the impact of the substantial toll increase on the general public and in particular the transport trades. The Liberal Party sincerely requested the company to give due consideration to the social and economic impacts of the toll increase and the community's sentiment, and hence consider giving concessions in respect of the toll increase. She appealed to all sides to adopt a more accommodating and collaborative attitude in settling the matter. She also urged the Administration to expeditiously identify workable measures to address the traffic problems.

46. Mr LEUNG Kwok-hung said that the level of a reasonable but not excessive remuneration was not defined in the legislation but was determined through arbitration. He commented that the company should not expect that there was a guaranteed return for its investment in the tunnel, as ultimately the investment was a commercial decision and all commercial decision entailed risks. He considered that the arbitrators' Award was not reasonable and unfair to the public. He in particular expressed disagreement with one of the conclusions for the 1997 Award that "it is necessary to adjust the tolls so as to ensure that the NHKTC's remuneration does not fall below the lower end of the band of reasonableness (15%). To be entitled to a toll increase, the NHKTC need not demonstrate that it has already fallen below the lower end of the band but rather that without a toll increase, it is inevitable that it will fall below this lower end over the franchise period.". He considered that before a reasonable distribution of traffic among the road harbour crossings was achieved, toll increase based on the said premise was not acceptable. He called on NHKTC not to implement the toll increase as it was unjustified.

47. Mr Abraham SHEK said that it was unfair to blame the Administration for the present situation or criticize the BOT arrangement based on present-day circumstances. It would be more meaningful for the concerned parties to collaborate and come up with measures or options which would achieve a win-win situation. He requested NHKTC to duly consider the impact of such a substantial toll increase on the

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local economy and the livelihood of the general public and not just focus on maximizing its return.

48. Mr TAM Yiu-chung said that in response to the suggestion of some other Panel members, he agreed to revise the wording of his motion to read as follows-

“本委員會對於東區海底隧道在完全漠視市民的負擔能力及意願下，瘋狂加價，表示震驚及強烈不滿。爲此，本委員會促請政府審慎考慮市民大眾利益，盡快檢討三條過海隧道收費，以改善三隧現時汽車分流失衡的情況。另外，本委員會要求政府在未來一個月內提出解決過海隧道汽車流量不均的方案，並呼籲隧道公司延遲東隧加價。”

English translation

“That this Panel expresses astonishment and strong dissatisfaction over the crazy toll increase of the Eastern Harbour Crossing, which is in total disregard of the affordability and wishes of the general public. In this connection, this Panel urges the Government to expeditiously review the toll levels of the three cross-harbour tunnels taking prudent consideration of the interest of the general public with a view to improving the current uneven distribution of traffic among the three tunnels. In addition, this Panel requests the Government to come up within one month with proposals aimed at addressing the uneven distribution of traffic among the cross-harbour tunnels, and calls on the tunnel company to defer the toll increase of the Eastern Harbour Crossing.”

Mr TAM said that whilst he still considered it important for the Administration to actively study the buy back option, in order obtain the support of more members, he agreed to revise the motion to state that the Panel urged the Administration to put forward concrete proposals to address the current uneven distribution of traffic among the three road harbour crossings within one month. In response to the Chairman’s enquiry, he confirmed the understanding that in working out proposals to address the uneven distribution of traffic among the three road harbour crossings, the Administration should examine the various options/schemes that had been suggested by members at this meeting and in the past.

49. Mr CHENG Kar-foo said that members shared the common concern about the uneven traffic distribution issue and agreed that the Administration must come up with concrete measures without further delay. As the Liberal Party had reservation on the buy back option, he had suggested to Mr TAM to revise the motion to focus on the need to address the uneven traffic distribution issue.

50. Mr LAU Chin-shek cautioned the Administration not to think of raising the tolls of CHT as a means to solving the traffic congestion problem arising from the toll increases of EHC. He expressed support for Mr TAM’s revised motion, and stated that given that the company could obtain an IRR of 13.64% without toll increase, he objected to any toll increase.

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51. Mr WONG Kwok-hing also expressed support for Mr TAM's revised motion. He said that for the Panel's next discussion on the matter, the Secretary for the Environment, Transport and Works and the Chairman of CITIC Pacific Ltd. should be invited to attend the discussion.

52. PS/ETW said that the Administration would continue to actively examine various possible options. However, he quoted the saying that "it takes two to tango" and pointed out that the cooperation of the tunnel franchisees was essential for certain options to be viable.

53. The Chairman put Mr TAM Yiu-chung's motion to vote. As a majority of the members voting voted for the motion, the Chairman declared that the motion was passed by the Panel.

54. The Chairman requested the representatives of NHKTC to relate members' views and the motion passed to the company's management. He said that as suggested by members, the Panel would further discuss the matter at the next meeting on 22 April 2005 and would invite representatives from ETWB, Financial Services and the Treasury Bureau and CITIC Pacific Ltd. to attend the meeting.

V Measures to enhance road safety

- (LC Paper No. CB(1)1096/04-05(04) - Submission from Tang's Taxi Companies Association Limited
LC Paper No. CB(1)1096/04-05(05) - Information paper provided by the Administration)

55. Members noted that a submission from 運輸業關注違例駕駛記分小組 was tabled at the meeting.

(Post-meeting note: The submission was issued after the meeting vide LC Paper No. CB(1)1141/04-05 on 21 March 2005.)

56. The Chairman welcomed the representatives from the Administration and the deputations to the meeting.

57. The Secretary for the Environment, Transport and Works (SETW) said that Hong Kong had very good reputation in traffic management within the Asian region. The Administration had the responsibility to ensure that adequate measures were in place to foster the compliance of road users with traffic regulations. In October 2004, a serious traffic accident caused by red light jumping was widely reported by the media and thus had aroused serious concern within the community about the problem of red light jumping. She stressed that the Administration had taken actions on the problem not simply in response to this incident or a few other similar incidents occurred thereafter. All along, the Administration had kept close watch over the road safety situation in Hong Kong having regard to traffic accident statistics. In 2004,

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there was an average of 107 prosecutions against red light jumping each day, a 60% increase compared with 2002. The number of casualties caused by red light jumping had also increased by 16%. On average, there was one traffic accident caused by red light jumping each day. In terms of prosecution/accident rate, there was one accident out of every 432 prosecutions against speeding involved casualties while the situation for red light jumping was one out of every 111 prosecutions. Having regard to these and other relevant statistics, the Administration considered the situation warranted serious attention. After a comprehensive review, the Administration had put forward measures to address the problem of red light jumping, amid other measures to combat inappropriate driving behaviour.

58. SETW further said that the Administration understood the concerns of the transport trades and concurred with the trades' suggestion that publicity and education for both motorists and pedestrians should be strengthened. In light of their views and suggestions, the Administration had checked whether the amber phase of some traffic signals did not conform to the standard 3-second duration, and reviewed the enforcement policy and practices with regard to red light jumping. Moreover, overhead traffic signals had been installed at certain traffic black spots and the Administration had plans to install more red lighting jumping cameras and camera housings. Apart from the safety of pedestrians and motorists, the Administration was also concerned about the surge of insurance premiums for public light buses (PLBs) arising from the increase of fatal incidents last year. On the proposal to raise the penalty level for red light jumping, SETW stressed that the Administration considered the measure necessary to achieve the intended deterrent effect and hence to maintain a safe road environment for motorists and pedestrians. The majority of motorists who were law abiding would benefit from the measure. To gauge public opinion on the issue, the Administration had commissioned the University of Hong Kong to conduct an opinion poll. Among some 1 500 respondents which included motorists, there was a general consensus that imposing 5 Driving Offence Points (DOPs) for red light jumping was appropriate.

新界的士司機權益大聯盟

59. 梁于榮先生, 理事 of the Alliance, said that for enhancing road safety, improving traffic management facilities especially traffic signals would be more effective than raising the penalty for red light jumping. The design of traffic signals should be improved to enable drivers to make correct judgment on whether he should go ahead or stop when approaching a signalized junction.

Kowloon Taxi Owners Association Ltd.

60. Mr YUM Tai-ping, Chairman of the Association, said that the Association did not object to raising the penalty for deliberate red light jumping. However, the Association objected to raising the penalty for those who could not stop during the amber phase for safety reasons. He suggested that -

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- (a) the green light should flash at least five times before the amber light was on;
- (b) overhead traffic signals should be installed as soon as possible;
- (c) consideration should be given to imposing separate penalties for contravening different light signal requirements specified under section 17 of the Road Traffic (Traffic Control) Regulations (Cap. 374G) (the Regulations).

61. Mr YUM further said that prosecution against red light jumping should be supported by evidential proof as motorists would be susceptible to unfair enforcement actions when prosecution was based on the personal observation of Police officers only.

全港職業司機反對衝紅燈加重扣分大聯盟
(*LC Paper No. CB(1)401/04-05(01)*)

62. 梁靜珊女士, Secretary of the Alliance, said that the transport trades strongly objected to the Administration's proposal to increase the DOPs and fine for failure to comply with traffic signals even though the proposed DOPs had been revised from 8 points to 5 points. The Alliance called on the Administration to withdraw the proposal, pending necessary improvements to the current design of traffic signals and other traffic management facilities. She highlighted that flashing signals which were widely used in the Mainland should be provided in Hong Kong. She urged SETW to pay heed to the views of the transport trades.

Hong Kong, Kowloon and N.T. Public & Maxicab Light Bus Merchants' United Association
(*LC Paper Nos. CB(1)1127/04-05(03), CB(1)478/04-05(01) and CB(1)323/04-05(01)*)

63. Mr LEUNG Hung, Chairman of the Association, said that the Association strongly objected to the Administration's proposal to increase the DOPs and fine for red light jumping. The Transport Panel also passed a motion at its meeting on 14 December 2004, requesting the Government to adopt all possible and practical measures to improve the design of road junctions and the display of traffic light signals to ensure the effective detection of deliberate red-light jumpers before considering raising the driving offence points against such offences. However, the Administration ignored the Panel's view and insisted on raising the penalty for red light jumping before the necessary improvements had been made.

64. Mr LEUNG further said that it was unfair for the Administration to use the results of the opinion poll conducted by the University of Hong Kong to justify its proposal. It was assumed in the questionnaire that motorists committed red light jumping deliberately and thus expectedly, nearly all respondents supported the proposal. The Association had repeatedly pointed out that due to outdated traffic

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signal design and inadequate facilities, professional drivers could easily fall into traps and fail to comply with traffic signals inadvertently.

Right Hand Drive Motor Association (HK) Ltd.

65. Mr Paul LAW, Founder Chairman of the Association, said that the underwriting profit for motor vehicle insurance business in Hong Kong had increased from some \$50 million in 2003 to some \$500 million in 2004, indicating that motorists in Hong Kong had taken greater care in driving. Pointing out that the countdown device for pedestrians installed at certain signalized junctions was well received by the local community, he considered that the provision of countdown device should be extended to vehicles.

Institute of Advanced Motorists Hong Kong
(*LC Paper No. CB(1)516/04-05(07)*)

66. Dr MONG Hoi-keung, Vice-Chairman of the Institute, said that the Institute supported the proposal to increase the DOPs and fine for failure to comply with traffic signals. He made the following points-

- (a) Hong Kong was a metropolitan city and thus the design of its traffic signals should conform to relevant international standards.
- (b) According to the Road Users Code, motorists should slow down and stop their vehicles when the amber light was on. There was no ambiguity in this regard.
- (c) A vehicle traveling at a speed of 50 kilometres per hour (km/hr) could travel 41 metres in 3 seconds. Hence, the present 3 second duration of the amber phase allowed sufficient time for all types of vehicles to stop before a signalized junction.
- (d) The penalty for red light jumping should be higher than that for careless driving, which was 5 DOPs and fine at present. Hence, red light jumping should incur more than 5 DOPs.

Mixer Truck Drivers Association
(*LC Paper No. CB(1)401/04-05(04)*)

67. Mr CHAN Sam-choi, Secretary of the Association, said that the Association objected to the Administration's proposal to raise the penalty for red light jumping before the necessary improvements had been made to the design of road junctions and the display of traffic signals. The Association suggested that the amber phase should be extended to 4 or 5 seconds, and all signalized junctions should be subject to a uniform speed limit.

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Association of N.T. Radio Taxicabs Ltd.
(LC Paper No. CB(1)401/04-05(06))

68. Mr LAM Kwai-keung, Chairman of the Association, said that the Administration had done little to improve the design of road junctions and the display of traffic signals despite the suggestions made by the transport trades. He was disappointed at the Administration's insistence on raising the penalty for red light jumping before the necessary improvements had been made. He highlighted that at present, motorists who stopped behind the traffic signals but protruded the stop line might be charged for red light jumping. Raising the penalty for red light jumping would put professional drivers under undue stress.

United Friendship Taxi Owners & Drivers Association Ltd.
(LC Paper No. CB(1)401/04-05(07))

69. Mr AU-YEUNG Kan, Chairman of the Association, said that the Administration should make reference to overseas legislation which differentiated deliberate red light jumping from inadvertent red light jumping. He considered that the relatively high casualty rate of red light jumping incidents reflected somehow that the current design of traffic signals in Hong Kong was outdated and thus had created traps for motorists. The increase in the underwriting profit of motor vehicle insurance business also reflected that motorists had exercised greater care when driving. He demanded that the Administration should first improve the design of road junctions and the display of traffic light signals and amend the legislation to differentiate between deliberate red light jumping and inadvertent red light jumping for the purpose of imposing appropriate penalties.

中重型貨車關注組

70. Mr LAI Kim-tak, Chairman of the Association, said that the Association did not object to imposing a heavy penalty on those motorists who committed red light jumping deliberately. The issue was that the existing road environment had a lot of traps and drivers could easily commit red light jumping inadvertently. He highlighted that the 3 second duration of the amber phase was not sufficient to allow medium and heavy vehicles to stop safely before the stop line. The Association demanded that apart from making necessary improvements to the design of road junctions and the display of traffic light signals, the Administration should amend the Regulations to differentiate deliberate red light jumping from inadvertent red light jumping.

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71. Mr WONG Tao, Representative of the Association, said that the traffic accident occurred in North Point in late 2004 was an isolated incident involving two reckless drivers. It was unfair for all drivers to take the consequences of the isolated traffic accident. There were ambiguities in the existing legislation regarding red light

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jumping. The Administration should not raise the penalty for red light jumping before the ambiguities were removed.

四海的士車主司機聯會有限公司

72. Mr LAU Kim-wan, Representative of the Association, said that although the traffic signals in Hong Kong met international standards, they indeed were outdated and had deficiencies. Most motorists would agree that there were lots of traps in the existing road environment and the existing traffic regulations were not sufficiently precise. Without making necessary improvements to relevant facilities and removal of ambiguities in the traffic regulations, raising the penalty for failure to comply with traffic signals would not be an effective measure to improve road safety.

Hong Kong Taxi Association

73. Mr LAI Hoi-ping, Chairman of the Association, cited the following examples to illustrate the problems with the display of traffic signals -

- (a) The sightline of a light goods vehicle driver would be completely blocked off if he drove behind a large vehicle and intended to turn right from Queen's Road Central onto Pedder Street.
- (b) Along the King's Road, due to the presence of tramways on one side and bus stops on the other, motorists often could not have clear sight of traffic signals.

He considered that vehicular countdown devices and overhead traffic signals should be provided to facilitate drivers' compliance with traffic signals.

Container Truck Drivers' Union

74. Mr YU Kwok-on, Chairman of the Union, expressed serious doubt about the effectiveness of the Administration's proposal to raise the penalty for red light jumping for enhancing road safety. According to his own driving experience, if he tried to stop a container truck approaching the stop line immediately when the amber light was on, traffic accidents would very likely occur and/or the vehicles behind would get annoyed. Given the current design of traffic signals and the general road conditions in Hong Kong, raising the penalty level for red light jumping was a draconian measure and unfair to professional drivers, especially drivers of heavy vehicles. He said that SETW should first understand thoroughly the actual circumstances facing professional drivers before pursuing the proposal to raise the penalty for red light jumping.

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Hong Kong Container Tractor Owner Association Limited
(LC Paper No. CB(1)401/04-05(14))

75. Mr CHAN Fu-chuen, Director of the Association, said that whilst the Association supported imposing a heavy penalty on those drivers deliberately jumping red light, the Association was opposed to increasing the DOPs for red light jumping. The Association considered that the Administration should review the existing legislation governing the offence and improve relevant facilities. The existing legislation did not differentiate the penalties for deliberate red light jumping and inadvertent red light jumping. The existing amber phase was too short for a heavy vehicle to stop safely before the stop line. A driver failing to stop behind the stop line when the amber light was on would also be charged for red light jumping. If the DOPs for the offence was increased to 5 DOPs or more, the livelihood of professional drivers would be seriously affected.

Rambo Taxi Owners' Association Ltd.

76. Mr LEE Chi-leung, Chairman of the Association, said that the road traffic conditions in Hong Kong were very complicated. Some instances of red light jumping were not caused by poor driving behaviour. A more effective measure to enhance road safety was to reduce the chance of motorists committing red light jumping inadvertently rather than raising the penalty for the offence. He believed that if the green light flashed a few times before the amber light was on, the chance of red light jumping could be reduced. He also pointed out that under the existing prosecution procedure for the offence of non-compliance with traffic signal, motorists were vulnerable to improper enforcement actions of the Police.

Lok Ma Chau China-Hong Kong Freight Association
(LC Paper No. CB(1)516/04-05(14))

77. Mr Stanley CHAING, Chairman of the Association, expressed dissatisfaction that the Administration did not pay heed to the views of the transport trades on the need to improve the road environment and criticized the Administration's tactic of initially proposing to increase the DOPs for red light jumping to 8 points and then revising the increase down to 5 points. He also considered that should a heavier penalty be imposed, it was necessary to review the present prosecution procedure for the offence.

Hong Kong Automobile Association
(LC Paper No. CB(1)516/04-05(02))

78. Mr Wesley WAN, Vice-President of the Association, said that the Association supported raising the penalty level for red light jumping. In parallel, the Administration should strengthen driver education and enforcement against the offence. The experience of other jurisdictions showed that provision of vehicular countdown devices would not help reduce red light jumping instances. In the United States, the amber phase was also 3 to 3.5 seconds. The duration should be sufficient

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to allow all types of vehicles to stop at a signalized junction, especially as the design of vehicles had improved much over time. However, the Association concurred with some other deputations that if the green light flashed a few times before the amber light was on, drivers could be better prepared to stop the vehicle in time.

HK Public-Light Bus Owner & Driver Association

(LC Paper Nos. CB(1)1096/04-05(03), CB(1)401/04-05(05) and CB(1)332/04-05(03))

79. 黎銘洪先生, 秘書長 of the Association, said that the main issue was the need to differentiate between deliberate red light jumping and inadvertent red light jumping. The Association did not object to imposing a heavy penalty on those drivers who jumped red light deliberately. However, partly due to the ambiguities of the relevant traffic regulations, the Police often did not carry out enforcement actions in a reasonable and fair manner. It was difficult for professional drivers to defend himself against the Police's charges at the court.

80. Referring to the motion passed by the Panel at the meeting on 14 December 2004, Mr LAI emphasized that appropriate measures must have been taken to ensure the effective detection of deliberate red-light jumpers before the proposal to raise the penalty for red light jumping was taken aboard.

The Hong Kong Taxi & Public Light Bus Association Limited

81. Mr TRAN Chau, Chairman of the Association, said that the Association held similar views as other deputations from the transport trades, and was also opposed to the proposal to increase the DOPs for red light jumping to 5 points.

Hong Kong Driving Instruction Club

82. Mr Albert LAI, Vice-Chairman of the Club, said that the Club was opposed to the proposal to increase the DOPs for red light jumping to 5 points. He opined that larger traffic signals for vehicles should be installed at all traffic black spots and crossroads. Whilst motorists should always be alert and adhere to good driving behaviour, the Administration should take adequate and prompt actions to improve the road environment to facilitate motorists' compliance with the traffic regulations.

Kowloon Truck Merchants Association Ltd.

83. Mr LEUNG Kun-kuen, Chairman of the Association, said that for a normal motorist, the response time to a traffic signal was 1.25 seconds. For a heavy vehicle, the current 3-second duration of the amber phase was not sufficient for heavy vehicles to slow down and stop when approaching a signalized junction. It was highly dangerous for heavy vehicles to brake suddenly in front of a signalized junction. The Administration should seriously consider prolonging the amber phase or adding a green flashing phase to enable motorists to stop their vehicles safely during the amber phase.

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Taxi Dealers & Owners Association Limited

(LC Paper No. CB(1)401/04-05(10))

84. Mr NG Kwan-sing, President of the Association, shared the view of other deputations from the transport trades that it was unfair for the Administration to raise the penalty for red light jumping before necessary improvements had been made to the road environment and more publicity and education on safe driving had been done. The Administration should appreciate the circumstances of professional drivers, who would be subject to undue stress if a stiffer penalty was imposed.

Public Light Bus General Association

(LC Paper No. CB(1)401/04-05(11))

85. 萬振輝先生, Vice-Chairman of the Association, said that the Association entirely shared the views of other deputations from the PLB trade. The Association supported imposing a heavier penalty on those drivers who committed red light jumping deliberately. However, the Administration should seriously consider and take actions on the following suggestions before imposing a heavier penalty -

- (a) installation of red light cameras (RLCs) at crossroads and traffic black spots should be expedited;
- (b) where necessary, overhead traffic signals should be installed to ensure that motorists had clear sight of the signals; and
- (c) the relevant legislation and enforcement policy should be reviewed to avoid disputes between the Police and motorists on charges against red light jumping.

Urban Taxi Drivers Association Joint Committee Co. Ltd.

(LC Paper No. CB(1)401/04-05(12))

86. Mr KWOK Chi-piu, Chairman of the Association, said that the Administration's tactic in taking forward the proposal to raise the DOPs for red light jumping was akin to bargaining in market. Over the past few months, it had done little to improve the road environment and hence it now came forth with a revised proposal to raise the DOPs for red light jumping to 5 points instead of 8 points. Notwithstanding the revision, the proposal would still cause undue pressure to professional drivers and thus result in more traffic accidents. As a Principal Official, SETW should keep abreast of the sentiment of professional drivers and adopt a prudent approach in taking forward any punitive measure.

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Motor Transport Workers General Union
(LC Paper No. CB(1)332/04-05(02))

87. Mr LI Wing-sang, Chairman of the Union, said that the traffic accident occurred in North Point in late 2004 had aroused strong sentiment among the public towards red light jumping. The Administration had taken advantage of this social sentiment in its public opinion poll. Expectedly, the results were in favour of the proposal to impose a heavier penalty for the offence. However, if a similar survey was conducted among motorists only, the results should be very different. The Union did not object to imposing a heavier penalty on those motorists who jumped red light deliberately. But under the Administration's proposal, motorists failing to comply with traffic signals inadvertently would also be heavily penalized.

Motor Transport Workers General Union (Public Light Bus Branch)

88. Mr AU-YEUNG Ming, Director of the Union, said that all professional drivers would agree that there existed many traps in the present road environment. He highlighted that many traffic signals on the Hong Kong Island were positioned right ahead of tram platforms and motorists' sight of them was seriously obstructed. In view of the inadequacies of the existing facilities, the Transport Panel passed the motion on 14 December 2004 urging the Administration to make necessary improvements before pursuing the proposal to raise penalty. The trade could not accept that the Administration pressed with the proposal without making significant improvements to the road environment first.

Hong Kong Kowloon Taxi & Lorry Owners' Association Limited
(LC Paper No. CB(1)1127/04-05(04))

89. Mr TSE Ming-chu, Representative of the Association, said that without necessary improvements to the traffic management facilities on the road, raising the penalty for red light jumping would not be an effective measure for combating red light jumping. The measure was also unfair to those drivers who committed red light jumping inadvertently or involuntarily. The Association considered that the existing penalty for red light jumping was adequate, bearing in mind that motorists who jumped red light and caused accidents would be prosecuted for careless driving or dangerous driving, which carried heavier penalties.

90. Mr TSE further said that the Association had the following suggestions -

- (a) overhead traffic signals should be installed;
- (b) the green light should flash five times before the amber light was on; and
- (c) red light cameras should be installed at all major signalized junctions.

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Hong Kong Logistics Association

91. Mr Stephen CHENG, Executive Vice President of the Association, said that the Association considered that to enhance road safety, the emphasis should be on education and publicity rather than imposing heavier penalties. For example, the Government should publicize the correct meaning of the amber phase, i.e. motorists should start slowing down and stop their vehicles once the amber light was on. Citing his personal driving experience, Mr CHENG said that the idea of differentiating deliberate red light jumping from inadvertent red light jumping in the traffic regulations warranted further study.

Federation of Hong Kong Transport Worker Organizations

92. 譚偉濤先生, Representative of the Federation, said that the transport trades were of the common view that if the Administration was genuinely concerned about the safety of road users, it should have taken prompt actions to improve the traffic management facilities on the road to facilitate compliance with traffic regulations rather than insisting on raising the penalty for red light jumping. By emphasizing the necessity of raising the penalty, the Administration was simply shifting its responsibilities to the transport trades and motorists in general. There were many underlying causes for professional drivers jumping red light, such as long working hours and complicated road conditions. Raising the penalty for non-compliance with traffic signals would not be effective in enhancing road safety.

Discussion with the Administration/deputations

93. Ms Miriam LAU said that the perception of the general public about “red light jumping” was that a vehicle did not stop but went ahead to pass a road junction when the red light was on. Sections 17 and 18 of the Regulations together defined what constituted as failure to comply with traffic signals, or “red light jumping” as commonly referred to. The offence covered a number of scenarios including: a vehicle simply went when the red light was on; a vehicle stopped when the red light was on but had proceeded beyond the stop line before it stopped or stopped at the box of a box junction; a vehicle passed a junction during the amber phase; a vehicle stopped during the amber phase but proceeded beyond stop line before it stopped. The latter three scenarios usually did not entail significant road safety problems. All these scenarios of non-compliance with traffic signals were presently subject to a uniform penalty according to sections 18 and 61 of the Regulations. Ms LAU further said that the controversy over the Administration’s proposal arose from the fact that the same penalty of 5 DOPs and \$600 fine would apply to all the scenarios of failure to comply with traffic signals. What the transport trades were demanding was that if a heavier penalty was to be imposed, it should be imposed against deliberate red light jumping only, i.e. the scenario where a vehicle simply went ahead when the RED light was on. For the other scenarios of non-compliance with traffic signals, the existing penalty should suffice. She then asked whether the Administration would heed the transport trades’ view and revise its proposal accordingly.

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94. SETW appreciated that the majority of the transport trades agreed to the proposal to impose a heavier penalty on those reckless drivers who jumped red light deliberately. Over the past few months, the Administration had made in-depth study on the various suggestions made by the transport trades including the provision of vehicular flashing and countdown devices. Studies and trials conducted by overseas revealed that advance warning devices for vehicular traffic might significantly increase the risk of head-rear collision due to motorists' different responses to the information displayed. Due to this and some other technical reasons, Guangzhou and Shenzhen had dismantled their vehicle countdown devices.

95. SETW further said that it was not correct to say that the Administration had done nothing and simply sought to raise the penalty to combat red light jumping. To facilitate effective enforcement, the Administration had decided to install more RLCs and RLC housings. Overhead traffic signals were being installed at over 20 sites and the Transport Department (TD) would consider installing more overhead traffic signals if the special circumstances warranted such provision. Suggestions from professional drivers on potential sites were welcome. TD carried out publicity and education programmes to promote safe driving on a continual basis and these programmes would be strengthened.

96. As regards the suggestion to review the legislation on the offence of failure to comply with traffic signals, SETW said that as mentioned by some deputations, the amber light signal generally meant that a vehicle should slow down and stop behind the stop line or the traffic signals if there was no stop line. On the concern about the enforcement policy on red light jumping, she invited the Chief Superintendent (Traffic Headquarters), Hong Kong Police Force to speak on the matter. She also informed the meeting that Ms HUI Wai-mui, a member of the public, would like to speak on the subject. (Ms HUI was notified by the Administration of the opportunity to speak on the subject at this Panel meeting.)

97. The Chief Superintendent (Traffic Headquarters), Hong Kong Police Force (CS/TH) advised that the conditions under which a vehicle should stop in response to traffic signals were prescribed in section 17 of the Regulations and were reflected in the Road Users Code. Red light jumping or traffic light jumping was one of the top 10 causes of traffic accidents in Hong Kong in recent years. Enforcement of the traffic regulations to ensure road safety was a priority within the Police Force. Police officers on the ground enforcing the Regulations had in recent years been assisted by an increasing number of RLCs installed around the territory and the cooperation of TD. He emphasized that irrespective of whether the enforcement action was taken by observation by Police officers or based on the photos taken by RLCs, the standard of proof and the enforcement policy were the same in all cases. It was appreciated that once the traffic signal went from green to amber, there were 3 seconds before the signal turned to red. The amber phase was to allow motorists to stop before the signal changed to red. However, the legislation specifically allowed for exceptional situations. A vehicle approaching the stop line might be too close to the stop line or

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the vehicle behind was too close to it that it could not stop safely. In those circumstances, a vehicle might carry on.

98. Regarding prosecution policy, CS/TH said that when filing a prosecution, the Police would ask the Police officer who had seen the offence to report all the circumstances pertinent to his or her observation at the time, including the road conditions, other vehicles and the possible speed of the vehicle concerned. In the case where photographs had been taken by RLCs, at least two photos (three or more at larger junctions) would have been taken in each case. He stated that where a vehicle approaching had attempted to stop, but unfortunately slightly crossed the stop line, the prosecution policy in those cases was to examine each and every case, look at the evidence on the ground and all the photographs to determine whether there was a deliberate attempt to jump the traffic signal or a genuine attempt to stop. Where a vehicle had gone slightly over the stop line, but no accident and no injury had been caused, the policy was not to prosecute. There might be instances where a vehicle had crossed the line by a third or a half of the vehicle length and perhaps had impinged upon the pedestrian crossing, in which case the Police would look into the circumstances of the case to see whether prosecution was merited. In the vast majority of these cases, the Police would not prosecute.

99. CS/TH further said that in some instances, a vehicle had legitimately passed the traffic signals but then had to stop at the junction because the traffic ahead did not allow it to exit the junction. Where photographs had been taken, it would become clear from the photograph evidence that the vehicle could not exit the junction. In these instances, the Police would not prosecute.

100. Ms Miriam LAU said that the trade supported the use of RLCs to facilitate effective and fair enforcement. Disputes mainly arose from prosecutions based on the personal observation of Police officers. Although CS/TH had advised that the Police would not prosecute in certain circumstances, the experiences of the transport trades were that very often they were still prosecuted, and even when they attempted to defend the case at the court, the court maintained the charges on the basis of the conditions prescribed in section 17 of the Regulations. Given this reality, the trades could not accept the proposal to increase the DOPs for red light jumping. Ms LAU then proposed that only those cases where it was clear that the vehicle did not stop and went ahead when the red light was on should be subject to the penalty of 5 DOPs and \$600 fine, and for the other cases, the existing penalty should be maintained. In parallel, the Administration should make improvements to the traffic management facilities on the road. In this regard, the trades had pointed out that very often, heavy vehicles could not stop safely within the 3 second amber phase. They therefore had suggested the extension of the amber phase or the provision of vehicular countdown or flashing devices to allow them more time to respond to the change in traffic signal, but these were all rejected by the Administration. It seemed that the Administration was only concerned to push through the proposal to raise the penalty for red light jumping.

101. SETW said that CS/TH had clearly explained the enforcement policy with regard to traffic light jumping and had affirmed that the same enforcement policy

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applied irrespective of whether the enforcement was based on photograph evidence or the observation of Police officers on the ground. The Administration had also explained in detail why it did not pursue the proposals to extend the amber phase and the provision of vehicular and countdown devices. On the suggestion of reviewing the relevant legislation to differentiate red light jumping from other traffic signal offences, SETW said that the Environment, Transport and Works Bureau (ETWB) needed to discuss the matter with the Police to determine whether the suggestion could be pursued.

102. Ms HUI Wai-mui said that she was one of the injured pedestrians in a traffic accident two years ago that was caused by red light jumping at Whitfield Road. The incident had made her realize the importance of road safety. Although she was not seriously injured, she had suffered much psychologically from the incident. For more than half year since the incident, she was scared of passing the road. Her emotion had been disturbed by the experience for some time. Being a resident in Tin Hau, she had seen many instances of red light jumping and had personally experienced an incident again recently. She supported the proposal to raise the penalty for red light jumping so as to strengthen the deterrent effect. Taking note of the view of some professional drivers that raising the penalty would put drivers under undue stress, she appealed to their understanding that their inconsiderate driving behaviour would jeopardize the safety of themselves and pedestrians. If red light jumping was endemic, pedestrians would also be under immense anxiety when they crossed roads.

103. Mr WONG Kwok-hing said that all the deputations from the transport trades were of the common view that deliberate red light jumping should be subject to a heavy penalty. It should however be recognized that very often motorists committed red light jumping inadvertently and under circumstances beyond their control due to traps on the road. The Administration should address this issue with appropriate measures. As there was no representative from the transport trades sitting on the Transport Advisory Committee, the deliberation of the Committee on the proposal had not given due consideration to the problems experienced by professional drivers. Given the strong view of the transport trades about the need to improve traffic management facilities on the road and to tackle deliberate red light jumping and inadvertent red light jumping separately, he demanded concrete response from the Administration.

104. SETW said that most of the views expressed by the deputations from the transport trades at this meeting had been reflected to the Administration at their regular meetings with TD. Thus, she did not agree with Mr WONG Kwok-hing that the Administration was not aware of the trades' views because there was no representative from the trades sitting on the Transport Advisory Committee. As a matter of principle, drivers should slow down their vehicles when approaching a road junction. Professional drivers should in particular be fully aware of this principle. In Hong Kong, most roads leading to road junctions were subject to a speed limit of 50 km/hr. Three seconds should be sufficient for all types of vehicles to stop before the stop line unless the vehicles were traveling at high speed. There was no problem with the design of traffic signals or road junctions. Professional drivers should not convey a

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wrong message to the public that they could not control a heavy vehicle properly and make timely response to traffic signals.

105. SETW further said that there was a clear consensus in the community on the need to improve road safety. The deterrent effect of the existing penalty for red light jumping was inadequate as evidenced by traffic accident statistics. As public safety was at stake, the Administration must not procrastinate on the matter. She reiterated that ETWB would discuss with the Police on the suggestion of reviewing the legislation relating to traffic signal offences.

106. Mr LEUNG Kwok-hung said that he fully understood the dire consequences of careless driving and therefore agreed that those who jumped red light deliberately should be subject to a heavy penalty. The main controversies were whether the Administration had taken adequate and prompt measures to improve the road environment to facilitate drivers' compliance with traffic signals and whether the legislation should be amended so that different penalties were imposed for deliberate red light jumping and inadvertent red light jumping to better reflect the relative gravity of the offences. The transport trades had put forward specific views and concerns on the needed improvements, and it was incumbent upon the Administration to provide satisfactory response. The Administration should not just urge Members to support its proposal to impose a heavier penalty. He knew some professional drivers who were already working under much stressful conditions. Raising the penalty for red light jumping would possibly make them subject to undue stress and in turn adversely affect road safety. He urged the Administration to expedite necessary improvements to the road environment and examine the suggestion of Ms Miriam LAU of amending the legislation so that deliberate red light jumping and inadvertent red light jumping were treated separately.

107. SETW said that the Administration had already taken forward a number of improvements including the installation of RLCs and overhead traffic signals. Installation works had started and would continue. So far, 28 overhead traffic signals were being installed. The Administration had explained that having regard to relevant experience of other jurisdictions, it would not pursue the provision of vehicular countdown or flashing devices. As regards enforcement, CS/TH had clearly explained the enforcement policy with regard to traffic light jumping. Although increasing the DOPs might increase the pressure on motorists, it would undoubtedly strengthen the deterrent effect, making motorists more alert and careful when driving.

108. Ms LI Fung-ying said that the transport trades and members shared the same view that deliberate red light jumping should be subject to a heavy penalty. She considered that the proposal to raise the penalty should be pursued after necessary improvements to relevant road facilities had been made. She expressed dissatisfaction that despite that the transport trades had already made a number of suggestions and the Panel had passed a motion at the meeting on 14 December 2004, the Administration had not taken active follow-up actions but insisted that the proposal to increase the penalty for red light jumping was to be implemented with the

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introduction of legislative amendments by May 2005. She thus questioned whether the Administration was adopting double standards in that it hastened the proposal to raise the penalty for red light jumping but procrastinate on improvements to relevant road facilities. She stressed that at present, red light jumping would incur at least 3 DOPs and a fine of \$450 and red light jumping causing casualties would likely be subject to heavier penalties. She urged SETW to consider the views of various concerned parties and re-prioritize the various measures accordingly.

109. SETW said that there was no question of the Administration adopting double standards. It was necessary to take forward the legislative and other measures in parallel to attain the objective of enhancing road safety. The implementation of certain measures required further study and/or funding approval and thus it took some time to complete the needed procedures and work. She stressed that the issues pertinent to enhancing road safety had already been discussed at different forums over the past six months. During this period, traffic accidents caused by red light jumping, some of which involved heavy casualties, continued to occur frequently. It would be irresponsible for the Administration to delay the measure of raising the penalty for red light jumping which was necessary to deter the reckless driving behaviour of a minority of motorists.

110. At this juncture, the Chairman said that as a number of members had indicated interest to speak on this item, and the meeting was scheduled to end at 12:45 pm, he consulted members on the arrangement for the next agenda item on “Northwest New Territories Traffic and Infrastructure Review 2004/Reconstruction and improvement of Tuen Mun Road”. Ms Miriam LAU said that the next agenda item involved complicated issues and suggested that the item be deferred to the next Panel meeting. Members agreed.

111. Mr Andrew CHENG said that the Democratic Party basically concurred with the Administration that raising the penalty for red light jumping would not affect law-abiding motorists and the measure would be effective in deterring reckless motorists. The Democratic Party also agreed to the Administration’s order of priorities on this matter. He however appreciated the transport trades’ demand that the Administration should do its part by improving the road environment to facilitate drivers’ compliance with traffic signals and considered that the Administration should not overlook the concerns and views of the trades.

112. In reply to Mr CHENG Kar-foo’s enquiry about the progress of the installation of RLCs and camera housings, the Deputy Commissioner for Transport/Planning and Technical Services said that the Administration planned to provide a total of 96 RLCs and had started to work on the implementation details. Once the required funding was approved, the Administration would carry out the procurement and installation works. As it would take some time to manufacture the RLCs and carry out the installation works, the whole project would unlikely be completed within the 2005-06 financial year.

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113. Noting the above, Mr CHENG Kar-foo opined that the Administration should accelerate the procurement and installation of RLCs. The RLC housings should also be erected as soon as possible. He anticipated that the Finance Committee would approve the required funding without hesitation, and urged the Administration to complete the procurement and installation of additional RLCs within the next financial year.

114. SETW assured members that the Administration had been taking forward the matter vigorously. The Deputy Secretary for the Environment, Transport and Works (Transport) 3 supplemented that at present, there were 28 RLCs and 111 RLC housings. The Administration planned to procure additional 68 RLCs and to install RLC housings at 20 additional locations, making up a total of 96 RLCs and 131 RLC housings. The ratio of RLCs to RLC housings would become 3:4, while the ratio was 1:4 in most other large cities. The Administration planned to seek funding approval within 2005-06 and thereafter would tender out the procurement and installation works.

115. Mr LAM Kin-fung said that the enforcement practice of the Police against red light jumping was one major concern. As RLCs were not available at all road junctions, the way the traffic signal jumping offence was enforced was often at the discretion of Police officers. He had the experience of being warned by a Police officer for red light jumping in an instance when he had slowed down and passed a junction during the amber phase. He had no intention to jump the red light at all in that instance. He reckoned that similar instances were frequently experienced by other motorists. He thus appreciated that the proposal to increase the DOPs for red light jumping heightened the worry of professional drivers about improper enforcement practices. The Administration should seriously address this genuine worry.

116. SETW said that one of the measures pertinent to reducing disputes between the Police and motorists on charges against red light jumping was the installation of more RLCs and RLC housings. She also considered that the relevant enforcement policy was very clear as had been explained by CS/TH.

117. Mr Albert CHAN pointed out that there could be great discrepancy between the enforcement policy formulated by senior management of Police and the actual enforcement actions taken by frontline officers. It was thus understandable that professional drivers had grave concern about the proposal to raise the penalty for red light jumping. Whilst he fully supported the spirit and principle underlying the proposal, he was concerned that some motorists especially professional drivers would be victimized as a result of unreasonable enforcement actions. He considered that the main problem with the present proposal was that a heavier penalty would apply to all scenarios of failure to comply with traffic signals irrespective of the fact that the safety risk varied substantially in different scenarios. He also pointed out that under the existing legislation, in more serious cases of red light jumping, the motorist concerned could be charged for careless driving or other serious offences. He urged the Administration to review and introduce amendments to the legislation so that different

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scenarios of failure to comply with traffic signals would carry appropriate penalties to reflect fairly the gravity of the offences.

118. SETW said that as a road junction was an interface between vehicles and pedestrians, any incident of red light jumping could still cause serious injury to pedestrians. This was also the reason for the high casualty rate of red light jumping.

119. In reply to Mr Albert CHAN's enquiry about the circumstances under which a driver jumping red light would be charged for careless driving or other serious traffic offences, CS/TH advised that normally, the Police would move beyond the red light jumping offence if there had been an accident or a close miss obvious from the observation of the Police officer on the spot or from photograph evidence. In a serious accident, the driver might be charged for careless driving or even dangerous driving depending on the circumstances.

120. Mrs Selina CHOW said that the Administration should not dichotomize the transport trades and the public on the issue. There was in fact a strong consensus in the community including the trades that deliberate red light jumping should be subject to a heavy penalty. What was at issue was that the relevant legislation had grey areas. As explained by CS/TH, there were certain circumstances under which jumping the amber light was allowed. Secondly, enforcement was not without ambiguities. She considered that before taking forward the proposal to raise the penalty for red light jumping, the Administration should first examine whether the actual enforcement operations were unequivocally consistent and fair, given that some members and deputations had cited instances of enforcement operations departing from the purported enforcement policy; if not, the concerns surrounding enforcement based on personal observation of Police officers were genuine and needed to be adequately addressed before raising the penalty for red light jumping. Mrs CHOW also suggested that the trade should invite SETW to take a ride on a heavy vehicle to obtain first-hand understanding of the concern that the 3 second duration of the amber phase was not sufficient for heavy vehicles to slow down and stop safely.

121. SETW maintained that it was necessary to undertake improvements to road facilities and raise the penalty for red light jumping in parallel as there was an urgency to safeguard road users' safety. The Administration had taken heed of the trades' views and taken prompt actions to make improvements to road facilities. She disagreed with Mrs Selina CHOW that the Administration was placing the general public and the trades at opposite positions. She explained that as most of the deputations attending this meeting came from the transport trades, and only one individual had had personal experience in a traffic accident caused by red light jumping, she had to relate to Members what she had gathered from the general public regarding the urgency of combating the inconsiderate driving behaviour.

122. With regard to the enforcement practices of the Police, SETW said that the Administration had reviewed with Police the policy and CS/TH had already explained the current practices. She also said that she would consider accepting the trade's invitation to take a ride on a heavy vehicle provided that the driver would drive safely.

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123. The Chairman said that the actual enforcement situation in regard to red light jumping was a very important issue. He got the impression that CS/TH's description of the enforcement policy was rather different from what had been experienced by professional drivers and some members. He suggested that the Administration should revert to members on this issue after further review of the enforcement practices.

124. Mr Abraham SHEK said that before he came to this meeting, he had no particular stance on the issue. After hearing the presentations of the depositions, he went out to observe the situation at a nearby road junction and found that amber light jumping was the norm while red light jumping instances were fairly frequent. To be a responsible Principal Official, SETW should tackle the problem without delay. In view of the seriousness of the problem, The Alliance supported the Administration taking forward the proposal to raise the penalty for red light jumping. The Alliance also considered that the Administration should take heed of the views of the transport trades and make improvements to road facilities so as to tackle the problem at root.

125. Mr CHEUNG Yu-yan said that the Administration often took opportunity of isolated incidents to justify its moves to impose draconian punitive measures on the relevant trade across the board. In this case, he observed the inclination of the Administration to adopt a similar approach. He considered it neither desirable nor necessary to emphasize the differences between the transport trades and the general public, and in fact they shared common concerns on the issue of road safety. Noting from SETW that the Administration was installing overhead traffic signals at 28 road junctions, he asked whether it had made any territory-wide assessment on the number of road junctions requiring the facility, and the schedule for the relevant installation works.

126. SETW responded that whilst isolated incidents had indeed aroused wide public concern, the Administration had kept track of traffic accident statistics to monitor the situation. The number of prosecutions against red light jumping increased by 60% from 2002 to 2004, and the number of casualties increased from 583 to 675 during the same period. The present proposal was founded on objective data. The Administration would be irresponsible and treating the public unfairly if it did not take appropriate actions to tackle the problem. As regards the installation of overhead traffic signals, she advised that TD would consider providing the facility at additional locations if there were special circumstances justifying the provision. The public especially professional drivers were welcome to give suggestions of potential locations.

127. Mr YUM Tai-ping, Chairman of The Kowloon Taxi Owners Association Ltd., said that the most effective measure was to improve the design of traffic signals. For example, if the green light flashed a few times before the amber light was on, motorists would have more time to respond and stop the vehicle. The response of the Administration so far indicated its distrust of motorists' judgment and he was disappointed with this.

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128. Mr LAM Kwai-keung, Chairman of Association of N.T. Radio Taxicabs Ltd., said that the Administration should complete the installation of overhead traffic signals at all major road junctions before proceeding with the proposal to raise penalty.

129. Mr LAI Kim-tak, Chairman of 中重型貨車關注組, expressed regret that the Administration had made special arrangements at this meeting trying to dichotomize the public and the transport trades. The trades had long been concerned about the enforcement practices of the Police in regard to red light jumping. The Police was given too much discretionary power at present. Moreover, the legislation on traffic signal offences contained ambiguities. It was necessary to review the legislation to remove the ambiguities and prevent arbitrary enforcement. Otherwise, with the implementation of a heavier penalty, professional drivers would be put under undue stress.

130. Mr WONG Tao, Representative of 的士權益協會有限公司, expressed dissatisfaction that before consultation with the trade, the Administration had announced its revised proposal to impose 5 DOPs for red light jumping a few days ago. He cautioned that if the Administration did not heed the transport trades' request to make necessary improvements to road facilities before pursuing the imposition of a heavier penalty, the trades might have to resort to vigorous counter actions. He urged SETW to resolve the matter through discussions with the trades.

131. Mr LAI Hoi-ping, Chairman of Hong Kong Taxi Association, said that in Zhuhai, vehicular countdown devices had been removed due to technical problems and a flashing green phase had been put in place instead. With the addition of the flashing green phase, traffic accidents had substantially reduced. A similar device was being put in place in Shenzhen. He questioned whether SETW had studied the relevant experience of other places thoroughly.

132. Mr YU Kwok-on, Chairman of Container Truck Drivers' Union, said that in his 10 years' experience of driving heavy vehicles, he had not incurred any DOP. SETW had misinterpreted the point he had made. What he had highlighted earlier on was that given the present design of the traffic signals in Hong Kong, a driver had to decide whether to halt or go ahead in one to two seconds during the amber phase having regard to the traffic conditions at the moment. In many instances, a vehicle in particular a heavy vehicle could not be safely stopped during the amber phase.

133. 黎銘洪先生, 秘書長 of HK Public-Light Bus Owner & Driver Association, questioned whether the Administration would respect the motion passed by the Panel at the meeting on 14 December 2004 and whether members would back away from their stance as set out in the motion.

134. Mr LEUNG Kun-kuen, Chairman of Kowloon Truck Merchants Association Ltd., said that he had been a professional driver since 1970 and had not had incurred any DOP. He had been driving very safely all along and did not say that he was not

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able to control a heavy vehicle. He had tried to explain the difficulties faced by heavy vehicle drivers due to the current design of traffic signals.

135. Mr Stanley CHAING, Chairman of Lok Ma Chau China-Hong Kong Freight Association, said that his impression of SETW was that she was rather impulsive in her work approach. To illustrate this, he cited the incidents of the fare reduction of New Territories taxis in 2003 and the permission for taxis to operate to the Lok Ma Chau restricted area taken effect recently. For the latter incident, Mr CHAING criticized that the measure was unfair to cross-boundary coaches as they had to obtain a permit to operate in the restricted area.

136. Dr Mong Hoi keung, Vice-Chairman of Institute of Advanced Motorists Hong Kong, said that the Association had made a proposal that amber light jumping and red light jumping should be treated differently. For amber light jumping, the existing penalty should suffice but for red light jumping, 8 DOPs should be imposed. As regards some deputations' views on the design of traffic signals, he commented that traffic signals were an international language and thus special features should be avoided as far as possible. He concurred with the Administration that the experience in other places confirmed that vehicular countdown and flashing devices, due to motorists' different responses to the information displayed, would pose even greater risk to road users' safety. Overhead traffic signals were also not suitable for use in urban areas.

137. SETW said that having listened to the views of the deputations, she could confirm her belief that professional drivers were law-abiding citizens. She stressed that the proposal to raise the penalty for red light jumping only targeted at reckless motorists. In fact, it was due to the inconsiderate driving behaviour of a minority of PLB drivers that the insurance premiums required of PLBs had substantially increased affecting the whole trade. She believed that the trade would benefit from the proposal. She also appealed to the understanding of the deputations that the Administration was accountable to the general public and thus should take prompt and appropriate measures to tackle the red light jumping problem without delay. She then added that the Administration would review the legislation on traffic signal offences.

138. Ms Miriam LAU suggested that the Administration consider amending section 18 of the Regulations such that non-compliance with the traffic signal specified in section 17(a) would be subject to the penalty of 5 DOPs and \$600 fine while the penalty for the other scenarios of non-compliance with traffic signals be kept unchanged.

139. The Chairman thanked the deputations and the representatives of the Administration for attending the meeting.

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VI Northwest New Territories Traffic and Infrastructure Review 2004/Reconstruction and improvement of Tuen Mun Road

- (LC Paper No. CB(1)1096/04-05(07) - Information paper provided by the Administration
- LC Paper No. CB(1)1097/04-05 - Background brief on Northwest New Territories Traffic and Infrastructure Development prepared by the Legislative Council Secretariat
- LC Paper No. CB(1)1096/04-05(08) - Information paper provided by the Administration)

140. In view of insufficient meeting time, members agreed that discussion of this item be deferred to the next Panel meeting scheduled for 22 April 2005.

VII Any other business

141. There being no other business, the meeting ended at 1:20 pm.

Council Business Division 1
Legislative Council Secretariat
17 May 2005