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Paper for the House Committee meeting on 24 November 2006

**Report of the Subcommittee to Study
Shipping and Port Control (Ferry Terminals)
(Amendment) Regulation 2004
(Commencement) Notice**

Purpose

This paper reports on the deliberations of the Subcommittee to Study Shipping and Port Control (Ferry Terminals) (Amendment) Regulation 2004 (Commencement) Notice.

Background

2. Over the past few years, there were suggestions regarding the need for a third cross-boundary passenger ferry terminal in Tuen Mun. As the two existing cross-boundary ferry terminals¹ still have spare capacity to meet future increase in passenger demand, the Administration did not consider it justifiable to commit public funds to build a third cross-boundary ferry terminal.

3. However, in considering that some private sector firms had expressed interest in converting part of the Tuen Mun Ferry Pier to operate cross-boundary ferry services and taking into account the views of the Panel on Transport, the Administration agreed to lease out part of the Tuen Mun Ferry Pier to the private sector for the operation of cross-boundary ferry services to/from Macau and cities in the Pearl River Delta Region. After an open tender exercise, the Administration signed a tenancy agreement in December 2003 with Hong Kong North West Express Limited ("the tenant") for the

¹ They are the Macau Ferry Terminal in Sheung Wan and the China Ferry Terminal in Tsim Sha Tsui. They have a total handling capacity of 26 million each year. The actual throughput from 2000 to 2005 ranges from 16.6 million to 19.5 million per year, representing a utilization rate of 64 – 75%.

occupation, modification and use of part of the Tuen Mun Ferry Pier for providing cross-boundary ferry services.

4. The tenant's tentative programme then was to complete the pier modification works and start to provide ferry services to Macau by the end of 2004. There were however subsequent changes to the programme, due to the need to amend some building plans in 2004, changes in the tenant's shareholding and management structure in 2005, and the tenant's replacing its contractor for the modification works in 2006.

5. The tenant's pier modification works have been substantially completed in late October 2006. It therefore decided, as a start, to commission the new Tuen Mun Ferry Terminal ("TMFT") on 3 November 2006 for the operation of cross-boundary ferry services between Tuen Mun and Zhuhai (Jiuzhou Port) with two return trips each day.

The Shipping and Port Control (Ferry Terminals) (Amendment) Regulation 2004 (Commencement) Notice ("the Commencement Notice")

6. The Shipping and Port Control (Ferry Terminals) (Amendment) Regulation 2004 (L.N. 57 of 2004) ("the Amendment Regulation") amends the Shipping and Port Control (Ferry Terminals) Regulations (Cap. 313 sub. leg. H) ("the Principal Regulations") to add a new Schedule 1 to the Principal Regulations. The names, the boundaries of the ferry terminals and the boundaries of their restricted areas are set out in the Schedule. The new TMFT is set out in item 3 of the Schedule. The existing two ferry terminals, namely, the China Ferry Terminal and the Hong Kong-Macau Ferry Terminal are respectively set out in items 1 and 2 of the Schedule. The boundaries of these two existing terminals and their restricted areas as declared by earlier orders and notices contained in subsidiary legislation L, M, P and W of the Shipping and Port Control Ordinance (Cap. 313) are repealed by the Boundaries of Ferry Terminals (Repeal) Order (L.N. 58 of 2004) and the Boundaries of Restricted Areas of Ferry Terminals (Repeal) Notice (L.N. 59 of 2004).

7. The Secretary for Security has also made the Immigration (Places of Detention) (Amendment) Order 2004 (L.N. 60 of 2004) and the Immigration Service (Designated Places) (Amendment) Order 2004 (L.N. 61 of 2004) to amend the Immigration (Places of Detention) Order (Cap. 115 sub. leg. B) and the Immigration Service (Designated Places) Order (Cap. 331 sub. leg. B) to designate a place of detention within the new TMFT.

8. In order to tie in with the commissioning of the new TMFT, the Secretary for the Environment, Transport and Works has appointed by the Commencement Notice 3 November 2006 as the day on which the Amendment

Regulation came into operation. As the other 4 pieces of subsidiary legislation, i.e. L.N. 58 to L.N. 61 of 2004, provide that they shall come into operation on the date appointed for the commencement of the Amendment Regulation, they also came into operation on 3 November 2006.

The Subcommittee

9. The House Committee agreed at its meeting on 10 November 2006 to form a subcommittee to study the Commencement Notice. Chaired by Hon Albert HO Chun-yan, the Subcommittee held a meeting with the Administration and the tenant to discuss the related issues. The membership list of the Subcommittee is in **Annex A**.

Deliberations of the Subcommittee

10. The Subcommittee generally welcomes the proposal for using part of the Tuen Mun Ferry Pier to operate cross-boundary passenger ferry services to/from Macau and cities in Pearl River Delta Region as this would enhance the convenience for residents in the Northwest New Territories ("NWNT"). The Subcommittee however is gravely concerned about the reasons for the slippage in the provision of cross-boundary ferry services to/from Macau as the tenant originally planned. It has examined whether the Administration had included specific provisions in the tender documents and the subsequent tenancy agreement, requiring the tenant to make its best efforts in providing cross-boundary ferry services as proposed and whether the present slippage in providing Macau services represents a breach of the tenancy agreement. It has also taken the opportunity to review, inter alia, the service improvement plan of the tenant, the financial arrangement of the new TMFT and the provision of connecting pedestrian facilities to the terminal.

Ferry services to Macau

11. The Subcommittee notes that whilst the selected tenant is obliged to provide cross-boundary ferry services at the new TMFT in accordance with its tender proposal, the service frequency, service destinations and whether the tenant will run the ferry services itself or sub-let the terminal premises and berthing slots to other parties for operation are all commercial decisions to be made by the tenant. According to the information provided by the tenant, upon the completion of the pier modification works in late October 2006, it would commission the new TMFT at the earliest opportunity. Ferry services provided at the new TMFT would initially be limited to Zhuhai, but it is currently liaising with the relevant authorities with a view to scaling up the services gradually to cover Macau and other Mainland ports such as Nansha.

12. The Subcommittee is concerned about the possible idling of berthing slots, leading to waste of resources and has examined the difficulties envisaged in providing cross-boundary ferry services to Macau at the new TMFT. Some members have suggested that the tenant may consider entering into a joint venture with existing operators so that cross-boundary ferries leaving China Ferry Terminal or Macau Ferry Terminal can also call at the new TMFT before their onward journeys to Macau and other Mainland ports. The tenant may also consider sub-letting the berthing slots to existing operators if it cannot obtain the necessary approval from the relevant authorities for using their port facilities. In this respect, the tenant maintains a prudent yet optimistic view towards the realization of the service expansion plan, though it cannot give a definite implementation timetable at this stage.

13. The Administration reiterates that the Administration has all along considered that there is no immediate need to use public funds to build a third cross-boundary ferry pier in Tuen Mun. However, in view of the interest expressed by the private sector and the views expressed by local bodies and the Panel on Transport, it had decided to let out part of the Tuen Mun Pier for the purpose of providing cross-boundary ferry services.

Financial arrangement of the new TMFT

14. The Subcommittee notes that in order to cater for the operation of the new TMFT, the Government has to create a number of civil service posts in the Immigration Department, Customs and Excise Department, Hong Kong Police Force and Marine Department at an estimated annual costs of some \$40 million, including staff costs and departmental expenses. At present, some 50 out of the 72 civil service posts created have been filled for the purpose. The remaining posts have yet to be filled up, pending the full operation of the new TMFT.

15. With the present daily patronage of 600, Mr Albert HO Chun-yan and Mr CHEUNG Hok-ming are concerned about the low utilization rate of the new TMFT and the resultant waste of resources as well as the financial and civil service implications for the Government. The Administration has explained that the new TMFT is implemented on the basis that the modification works and other related expenses have to be shouldered by the tenant. Under the tenancy agreement, the Government will receive an annual amount of \$16.3 million from the tenant. There will also be additional revenue in the form of berthing and embarkation fees. As such, the project should by and large be cost-neutral to the Government.

16. Ms Miriam LAU Kin-ye holds the view that there is a need for the Government to provide the basic infrastructure and supporting facilities to facilitate the movement of people and goods. As such, the primary policy objective of the Government should not be cost consideration or maximization

of revenue. She is concerned whether the operator will be able to operate a viable business, given the huge investment in vessel procurement and subsequent maintenance.

Fares

17. The Subcommittee has enquired whether Government has any plan to regulate the fares charged by the tenant for its cross boundary passenger ferry services. The Administration has explained that in line with the arrangements for services operating at the two existing cross-boundary ferry terminals, the Government will not regulate the fares to be charged by the operator for its cross-boundary passenger ferry services. It will leave it to the market force to determine the fares of cross-boundary ferry services.

Connecting facilities to the new TMFT

18. As the new TMFT is located near the Tuen Mun Light Rail Terminus, some members of the Subcommittee are concerned about the possible conflict in traffic between ferry passengers and the light rail trains. They are worried that there may be safety implications and disruption to light rail service. They therefore call on the Administration to start implementing the project to construct a direct access link between Pierhead Garden and the new TMFT before the full operation of the terminal. The Administration has explained that given the short distance between the Light Rail Terminus and TMFT, and the TMFT's design capacity of only 800 passengers per hour, there is no need to construct a bridge to connect Pierhead Garden with TMFT. Transport Department, however, has been improving the signage in the area to facilitate passenger circulation and enhance pedestrian safety. It will also keep in view the situation and introduce further improvement measures as and when necessary.

Environmental concern

19. The Subcommittee notes that the tenant has not received any complaints from near-by residents against excessive noise generated by the operation of the new TMFT.

Advice sought

20. The House Committee is invited to note the deliberations of the Subcommittee.

**Subcommittee to Study Shipping and Port Control (Ferry Terminals)
(Amendment) Regulation 2004 (Commencement) Notice**

Membership list

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| Chairman | Hon Albert HO Chun-yan |
| Members | Hon SIN Chung-kai, JP Hon Miriam LAU Kin-yee, GBS, JP Hon Albert CHAN Wai-yip Hon CHEUNG Hok-ming, SBS, JP (Total: 5 Members) |
| Clerk | Mr Andy LAU |
| Legal Adviser | Miss Monna LAI |
| Date | 21 November 2006 |