

立法會

Legislative Council

LC Paper No. CB(1)872/09-10
(These minutes have been
seen by the Administration)

Ref : CB1/PL/TP/1

Panel on Transport

Minutes of special meeting held on Wednesday, 23 September 2009, at 10:45 am in the Chamber of the Legislative Council Building

- Members present** : Hon CHEUNG Hok-ming, GBS, JP (Chairman)
Hon Andrew CHENG Kar-foo (Deputy Chairman)
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon LAU Kong-wah, JP
Hon Miriam LAU Kin-ye, GBS, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon LI Fung-ying, BBS, JP
Hon Tommy CHEUNG Yu-yan, SBS, JP
Hon Albert CHAN Wai-yip
Hon WONG Kwok-hing, MH
Hon LEE Wing-tat
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon LEUNG Kwok-hung
Hon Ronny TONG Ka-wah, SC
Hon KAM Nai-wai, MH
Hon IP Wai-ming, MH
Hon Mrs Regina IP LAU Suk-ye, GBS, JP
- Member absent** : Hon WONG Sing-chi
- Public officers attending** : **Agenda item I**
Mr YAU Shing-mu, JP
Under Secretary for Transport and Housing

Miss Shirley YUEN
Deputy Secretary for Transport & Housing (Transport) 2

Miss Janet WONG
Principal Assistant Secretary for Transport and Housing
(Transport) 1

Mr Don HO
Assistant Commissioner for Transport
Transport Department

Mr Ken HUI
Chief Transport Officer

Agenda item II

Miss Erica Ng
Principal Assistant Secretary for Transport and Housing
(Transport) 2

Mr Don HO
Assistant Commissioner / Management & Paratransit,
Transport Department

Mr Carey WONG
Principal Transport Officer / Management, Transport
Department

**Attendance by
invitation**

: Agenda item I

Chuen Lee Radio Taxis Assn. Ltd.

Ms WU Yim-chun
Chairman

Urban Taxi Driver Assn. Joint Committee Co. Ltd.

Mr KWOK Chi-piu
Chairman

Front Line Taxi Driver Association

Mr LAM Kwai-keung
Chairman

Tai Wo Motors Ltd.

Mr NG Hoi-shan
Vice Chairman

Taxi Drivers & Operators Association

Mr NG Yip-pui
General Director

N. W. Area Taxi Drivers & Operators Association

Mr WONG Wing-chung
Chairman

Right of Taxi Owner & Driver Assn. Ltd.

Mr LAU Kim-wan
Chairman

Fatat Association for the Rights of Taxi Drivers

Mr HO King-man
Chairman

Association for the Rights of Taxi Drivers

Mr Andy LI Hong-chun
President

Sun Hing Taxi Radio Service General Association

Mr CHAN Wai-ming
President

New Territories Taxi Drivers' Rights Alliance

Mr LEONG Yee-weng
Chairman

Motor Transport Workers General Union

Mr LOW Shih-cheng
組織部主任

Motor Transport Workers General Union Taxi Driver
Branch

Mr TO Sun-tong
Supervisor

Association for the Rights of Liberty Taxi Drivers

Mr WONG Wang-lok
Chairman

Taxi Dealers & Owners Association Limited

Mr NG Kwan-sing
President

Association of N.T. Radio Taxicabs Ltd.

Mr TSANG Wai-hung
Vice Chairman

United Friendship Taxi Owners & Drivers Association
Ltd.

Mr LEUNG Chak-sang
Chairman

Evergreen Hong Kong Taxi-Drivers Association

Mr WONG Tang-tung
President

Association For the Rights of Cyberlink Taxi Drivers

Mr CHAN Chi-keung
President

Rights of Taxi (Si Hai) Telecommunication Center
Limited

Mr YU Chui-kan
Chairman

Taxi Association Limited

Mr CHAN Kim-fung
Chairman

拔萃會司機權益有限公司

Mr LAM Jick-yin
Chairman

New Territories Taxi Operation Union

Mr CHAN Shu-sang
Chairman

The Hong Kong Taxi & Public Light Bus Association Limited

Mr WONG Chung-keung
Chairman

New Territories Taxi Merchants Association Limited

Ms CHAN Oi-lin
監事長

Lantau Taxi Association

Mr POON Kwok-hung
Chairman

Taxi & P.L.B. Concern Group

Mr LAI Ming-hung
Chairman

CTOD Association Co Ltd.

Mr CHAN Moon-yau
Vice Chairman

Wai Yik H.K. KLN. & N.T. Taxi Owners Association Ltd.

Mr William LI Kwok-ying
Vice Chairman

Clerk in attendance : Ms Joanne MAK
Chief Council Secretary (1)2

Staff in attendance : Ms Sarah YUEN
Senior Council Secretary (1)6

Miss Winnie CHENG
Legislative Assistant (1)5

Action

I Regulation of charging taxi fares according to meters

- (LC Paper No. CB(1)1613/08-09(03) — Administration's paper on changes in operating conditions after taxi fare adjustments and overseas study and discussions with taxi trade on charging according to meter
- LC Paper No. CB(1)2613/08-09(01) — Background brief prepared by the Legislative Council Secretariat)

Presentation of views by deputations

Chuen Lee Radio Taxis Assn. Ltd.

Ms WU Yim-chun said that the Association, which represented taxi owners and drivers, indicated support for the enactment of legislation to regulate charging according to meters. In support of the Association's stance, she quoted a case to explain how enactment of the legislation could help minimize disputes between taxi drivers and passengers and unhealthy competition among trade members.

Urban Taxi Driver Assn. Joint Committee Co. Ltd.

2. Mr KWOK Chi-piu opined that the proliferation of discount gang activities had been caused by the claim made by a former Government official that fare bargaining by passengers was not against the law, and the Police's failure to protect taxi drivers refusing to accept payment below the metered fare from assaults by passengers. He urged the Administration to introduce legislation to regulate charging according to meters without further procrastination under various pretexts.

Front Line Taxi Driver Association

3. Mr LAM Kwai-keung pointed out that the taxi trade's business was not as good as that presented by the Administration. He questioned the Administration's refusal to introduce legislation to regulate charging according to meters to protect taxi drivers from passengers' unreasonable requests for discounts.

Tai Wo Motors Ltd. (TWML)
(LC Paper No. CB(1)2639/08-09(01))

4. Mr NG Hoi-shan briefed members on the salient points of the submission made by TWML. In gist, passengers were already required to pay taxi fares according to meters under the existing legislation. In solving fare disputes between taxi drivers and passengers, police officers should step up enforcement of the above legislation.

Taxi Drivers & Operators Association

5. Mr NG Yip-pui pointed out that unless fare bargaining was prohibited by law, taxi drivers had difficulty in turning down passengers' discount requests.

N. W. Area Taxi Drivers & Operators Association
(LC Paper No. CB(1)2613/08-09(02))

6. Mr WONG Wing-chung briefed members on the salient points of the Association's views as detailed in its submission. In gist, the Association opined that the Administration should enact legislation to prohibit fare bargaining by passengers and tackle the problem of taxi gangs monopolizing business at the taxi stands of boundary crossings.

Right of Taxi Owner & Driver Assn. Ltd.

7. While pointing out that fare bargaining by either taxi drivers or passengers was illegal, Mr LAU Kim-wan stressed the need to differentiate between "enquiring about the fare" and "fare bargaining". If not, enactment of legislation to prohibit fare bargaining by passengers might create conflicts between taxi drivers and passengers.

Fatat Association for the Rights of Taxi Drivers
(LC Paper No. CB(1)2649/08-09(01))

8. Mr HO King-man briefed members on the salient points of the Association's views as detailed in its submission, including –

- (a) It was regretful that implementation of the fare structure of

"raising short-haul fares and lowering long-haul fares" (the new fare structure) had only led to decrease in taxi drivers' incomes;

- (b) The Legislative Council (LegCo) should urge the Administration to gear up monitoring of taxi rentals, which had increased despite the financial tsunami; and
- (c) LegCo should make efforts to minimize fluctuations in taxi licence premiums, so as to dampen taxi licence speculation.

*Association for the Rights of Taxi Drivers
(LC Paper No. CB(1)2639/08-09(02))*

9. Mr Andy LI briefed members on the salient points of the Association's views as detailed in its submission. In gist, he pointed out that the taxi trade's business had been unsatisfactory since implementation of the new fare structure. He expressed concern about the conflicts of interests among different types of taxi operators, and highlighted the Association's stance as follows –

- (a) The Association supported the regulation of charging taxi fares according to meters; and
- (b) Alternatively, the Administration should explore the adoption of a more flexible taxi fare regulatory regime by allowing established taxi organizations to propose their own fare tables as long as the fares proposed would not exceed the fare level specified by the authority concerned.

*Sun Hing Taxi Radio Service General Association
(LC Paper No. CB(1)2613/08-09(03))*

10. Mr CHAN Wai-ming briefed members on the salient points of the Association's views as detailed in its submission. In gist, the Association supported the enactment of legislation to regulate charging according to meters, so as to restore a level playing field and minimize disputes between taxi drivers and passengers.

New Territories Taxi Drivers' Rights Alliance

11. Mr LEONG Yee-weng opined that the new fare structure failed to achieve its purposes of increasing taxi drivers' incomes and discouraging discount gang activities. He opined that legislation to regulate charging according to meters should be enacted to protect the interests of both taxi drivers and passengers

Motor Transport Workers General Union

12. Mr LOW Shih-cheng expressed concern about the loophole in the relevant legislation that had given rise to fare bargaining by passengers, which he considered detrimental to the rule of law and Hong Kong's image as a world city. He considered it reasonable to prohibit passengers from fare bargaining as in the case of buses and public light buses, and urged the Administration to enact the relevant legislation without procrastination.

Motor Transport Workers General Union Taxi Driver Branch

13. Mr TO Sun-tong considered that the Transport Department (TD) had not taken effective measures to combat discount gang activities. The Administration had undermined the long-established meter system, thereby giving rise to disputes between taxi drivers and passengers. Moreover, despite the new fare structure, discount gang activities had in fact become more rampant. The Branch considered the Administration's reluctance in enacting the legislation disappointing.

Association for the Rights of Liberty Taxi Drivers

14. Mr WONG Wang-lok pointed out that without enacting legislation to regulate charging according to meters, the new fare structure had failed to curtail discount gang activities or increase taxi drivers' incomes. The Association therefore opined that for the sake of building up a law-abiding and harmonious society, LegCo should as soon as practicable enact legislation to regulate charging according to meters.

Taxi Dealers & Owners Association Limited

15. Mr NG Kwan-sing said that the Association did not agree to the enactment of any legislation that might affect passengers because the move might in turn affect tourists and Hong Kong's image. Instead, the Administration should explore the enactment of legislation to prohibit taxi drivers from charging below metered fares. In the long run, the Administration should make efforts to enhance the competitiveness of taxis and broaden the trade's business opportunities, so as to minimize the need to offer discounts to increase patronage.

Association of N.T. Radio Taxicabs Ltd.

16. Mr TSANG Wai-hung demanded enactment of legislation to regulate charging according to meters and said that if it was enacted, it should be duly enforced.

*United Friendship Taxi Owners & Drivers Association Ltd.
(LC Paper No. CB(1)2613/08-09(04))*

17. Mr LEUNG Chak-sang briefed members on the salient points of the Association's views as detailed in its submission. In gist, the Association opined that the existing legislation could already regulate charging according to meters. What the Administration should do was to gear up enforcement.

Evergreen Hong Kong Taxi-Drivers Association

18. Mr WONG Tang-tung considered it important to enact legislation to regulate charging according to meters to discourage fare bargaining by passengers. The Administration should also address the imbalance in the supply and demand of taxis.

Association For the Rights of Cyberlink Taxi Drivers

19. Mr CHAN Chi-keung said that the Association was gravely concerned about the impact of legislation to regulate charging according to meters on the business of taxis given the present difficult operating environment.

Rights of Taxi (Si Hai) Telecommunication Center Limited

20. Mr YU Chui-kan questioned why despite support by the majority of the taxi trade for enacting legislation to regulate passengers, the Administration was still reluctant to take this step. He warned the Administration against further procrastination by highlighting the plight of law-abiding taxi drivers suffering from decreased incomes.

Taxi Association Limited

21. Mr CHAN Kim-fung highlighted the need to enact legislation early to regulate charging according to meters, so as to protect law-abiding taxi drivers from passengers' unreasonable requests for discounts and unfair competition from discount gangs. Without such legislation, even police officers questioned taxi drivers' refusal to give discounts.

拔萃會司機權益有限公司

22. Mr LAM Jick-yin said that the Administration should as soon as practicable enact legislation to regulate charging according to meters, so as to restore a level playing field and minimize disputes between taxi drivers and passengers.

New Territories Taxi Operations Union

23. Mr CHAN Shu-sang attributed the plight of the taxi trade to increases in the prices of taxis, tyres and car batteries by some 27%, 15% and 55% respectively, and in taxis' insurance premiums which had doubled. As such, although taxi rentals had gone down by one-third, the profit margin of taxi operation was indeed very small. The Union therefore supported the enactment of legislation to regulate charging according to meters, so as to protect the income of taxi drivers.

*The Hong Kong Taxi and Public Light Bus Association Limited
(LC Paper No. CB(1)2626/08-09(01))*

24. Mr WONG Chung-keung briefed members on the salient points of the Association's views as detailed in its submission. In gist, the Association did not support the enactment of legislation to regulate charging according to meters because the legislation was in its view difficult to enforce and ineffective due to difficulties in collecting evidence. It would instead affect the operating environment of taxis, inconvenience the public, and affect tourists as well as Hong Kong's image. To tackle the problem of discount gangs at root, the Administration only had to gear up enforcement efforts.

New Territories Taxi Merchants Association Limited

25. Ms CHAN Oi-lin pointed out that taxi drivers/passengers were obliged to charge/pay taxi fares according to meters. In addition, the Administration should strengthen publicity and education to enhance awareness of the need to calculate taxi fares according to meters.

Lantau Taxi Association

26. Mr POON Kwok-hung stated his opposition to enactment of legislation to regulate charging according to meters considering the difficulties in collecting evidence in cases where the fare was mutually agreed between drivers and passengers. He further pointed out that there were no discount gang activities in Lantau because the fare level of Lantau taxis was reasonable and there was no room for discount gang activities. To control discount gang activities among urban taxis, it might be more advisable to review the fare level of urban taxis.

*Taxi & PLB Concern Group
(LC Paper No. CB(1)2613/08-09(06))*

27. Mr LAI Ming-hung said that the discount gang problem had been caused by loopholes in the relevant legislation. To plug the loopholes, the relevant legislation should be amended to the effect that failing to charge according to meters would constitute a crime, and that if passengers unreasonably asked for

discounts, taxi drivers could seek help from the Police with the passengers concerned being held responsible for compensating the drivers for all losses so resulting.

CTOD Association Co Ltd.

28. Mr CHAN Moon-yau opined that the taxi trade should ensure payment of metered fares because the fares had been set according to proper procedures, i.e. endorsements by the Executive Council as well as LegCo.

Wai Yik H.K., KLN. & N.T. Taxi Owners Association Ltd.

29. Mr William LI highlighted the proliferation of discount gang activities since 2004, which in turn had led to increase in traffic accidents because discount gang taxi drivers often had to take orders on the phone while driving. He expressed discontent about the lack of progress in curtailing the activities, and urged the Administration to improve the existing legislation to combat the activities.

30. Members noted that the following organizations, which did not send representatives to the meeting, had each provided a submission for members' reference –

- (a) Pak Kai Taxi Owners Association Ltd. (LC Paper No. CB(1)2613/08-09(05));
- (b) Hong Kong & Kowloon Radio Car Owners Association Ltd. (LC Paper No. CB(1)2626/08-09(02); and
- (c) Traffic Services Employees Association (LC Paper No. CB(1)2649/08-09(02)).

Administration's initial response to deputations' views

31. The Under Secretary for Transport and Housing (USTH) said that the Administration recognized that the taxi trade's business had been hit by the financial tsunami, outbreak of the swine flu, and competition from other public transport modes. The Administration was already making efforts to improve the operating environment of the trade. In this regard, the new fare structure could help align the taxi fare structure with the fare structures of other public transport modes to enhance the competitiveness of taxis in the longer-haul transport sector. He said that judged by relevant statistics, the new fare structure had enabled taxi drivers to maintain a stable income notwithstanding the economic downturn. As to the deputations' call for enactment of legislation against undercharging, according to the study on the experience of overseas cities in implementing the requirement of charging according to meters,

enactment of the legislation was not preferable because of the following considerations –

- (a) The legislation was difficult to enforce and was hence ineffective because there were difficulties in collecting evidence in cases where the fare was mutually agreed between the driver and the passenger, as the Administration could only rely on the two parties' statements as evidence. Moreover, market problems should be tackled through the market mechanism and using legislative means would not bring any concrete effect;
- (b) Implementation of the new fare structure had already shown positive results. The problem of fare bargaining had become alleviated since the implementation of new fares and the discounts offered to passengers had dwindled, reflecting reduced room for the operation of discount taxis;
- (c) Criminalizing certain acts was a serious issue. Making fare bargaining a criminal offence would be controversial among members of the community; and
- (d) There was a need to consider whether enactment of the legislation would undermine the flexibility in taxi operation. Moreover, the views in this regard as gathered from relevant discussions with the trade at TD's taxi conferences were diverse, and not all members of the trade supported the legislative approach.

USTH emphasized that in recognition of the considerations above, there was a need to monitor the market situation and communicate with the trade for a longer period before deciding on whether to enact the legislation. It was therefore not the ripe time to enact the legislation.

Discussion

Effect of the new fare structure

32. Quoting the taxi trade's complaints about poor business, Ms LI Fung-ying cast doubt on the taxi income data quoted in the Administration's paper, according to which there had been an increase in the incomes of taxi drivers all over Hong Kong since implementation of the new fare structure. The Assistant Commissioner for Transport (AC for T) responded that the data had been collected by tracking changes in the meter revenue as recorded in taxi meters. He explained that although taxis' meter revenue had slightly decreased since implementation of the new fare structure, due to the significant reduction in operating costs, in particular the fuel cost, the net income for taxi drivers had in general increased.

33. Ms Miriam LAU opined that the Administration's inaction would not help address the problem of discount gang activities. She said that although the Administration claimed that the new fare structure had some effect in curtailing the activities and that the business of the taxi trade had improved, the effect would be very limited if no action was taken to plug the loophole in law that had given rise to discount gang activities. The discount gang problem might even deteriorate if fuel cost went up again. USTH responded that the Administration had already been gauging changes in the operating conditions of the taxi trade subsequent to implementation of the new fare structure for assessment of the need for enactment of legislation.

Need for legislation to regulate charging according to meters

34. Mr WONG Kwok-hing expressed great disappointment at the Government's refusal to enact legislation to regulate charging according to meters. He pointed out that only about four of the deputations explicitly opposed to the enactment of such legislation. He considered the Government's stance unacceptable and it had ignored the need to safeguard taxi drivers' safety and livelihood, and the normal operation of the trade. He pointed out that, without plugging the loophole in law, discount gang activities would be encouraged to persist notwithstanding the new fare structure.

35. USTH responded that if a passenger asked for a discount, the driver under the existing law could turn down the request and report to the Police where necessary. Moreover, it might be futile to enact legislation that would be difficult to enforce. He pointed out that using legislative means to address market problems would not bring any concrete effect. He added that there was also little overseas experience to which reference could be made in determining the levels of penalties for relevant offences.

36. Ms LI Fung-ying queried USTH's explanation and pointed out that the lack of overseas experience for reference should not be a concern as seen from the successful experience of the operation of the Protection of Wages on Insolvency Fund in Hong Kong. She highlighted that the legislative approach was supported by the majority of members of the taxi trade. The Deputy Chairman shared her views. In response, USTH reiterated that criminalizing certain acts was a serious issue, and making taxi fare bargaining a criminal offence would be controversial among members of the community. The general public might not consider it justified to enact legislation against taxi fare bargaining.

37. Referring to the Administration's paper and highlighting the overseas experience in stipulating the requirements for charging according to meters in the laws and in licensing conditions, Ms Miriam LAU pointed out that those cities studied shared in common that their discount gang activities were less rampant compared with Hong Kong. She considered that legislation could in

fact help stamp out the activities. Moreover, the current policy of imposing no regulation against undercharging was unfair to those drivers who adhered to charging according to the meter. AC for T responded that the lack of enforcement actions overseas might be explained by the fact that discount gang activities were not rampant in the cities concerned, or that there were difficulties in collecting evidence.

38. Mr Ronny TONG and the Deputy Chairman indicated support for enactment of legislation to regulate charging taxi fares according to meters to establish a fair system, and questioned why the Administration should consider that the move would result in undue restrictions and jeopardize the flexibility of taxi operation. They considered that the move would, on the contrary, provide clearer guidelines for the public to follow. USTH responded that there would be difficulties in collecting evidence in cases where the fare was mutually agreed between drivers and passengers. Moreover, the public might not find it justified to deploy substantial resources to enforce against taxi fare bargaining, which might in fact inconvenience them.

39. Mr Ronny TONG pointed out that many people would continue to engage in taxi fare bargaining if there was no legislation to clearly prohibit it. With such legislation in place, the Police might only need to conduct under-cover operations from time to time and might not need to put in additional resources. Moreover, in deciding whether to enact the legislation, the major consideration should be the need to uphold a fair system and not enforceability. The Deputy Chairman considered that the discount gang problem had stemmed from the existing loophole in the law, and he could not accept the Administration's using enforcement difficulties as an excuse not to enact legislation to rectify the existing unfair system.

40. USTH responded that the root of the problem of fare bargaining lay in the imbalance between supply and demand in the taxi market. Unless the imbalance was redressed through market mechanism, the problem would persist despite enactment of the legislation. Quoting the case of red light jumping, Mr Ronny TONG stressed the need to enact the legislation notwithstanding its effectiveness. In response to him on the technical difficulties involved, USTH explained that enforceability aside, there was also a need to examine the targets and levels of penalties.

41. Highlighting the trade's majority support for enactment of legislation on charging according to meters, Mr IP Wai-ming also urged the Administration to pursue the approach to ensure fairness to and protect the interests of law-abiding taxi drivers. He said that the difficulties would not be greater than those involved in combating the drug problem or triad activities. USTH responded that the Administration was already closely monitoring taxi operation to understand problems faced by taxi drivers. He pointed out that under the existing legislation, taxi drivers had a legitimate right to turn down discount

requests.

Motion

42. Mr WONG Kwok-hing moved the following motion, which was seconded by Ms LI Fung-ying –

"促請政府立即展開立法規管的士按錶收費的研究。"

(Translation)

"That this Panel urges the Government to immediately commence study on the enactment of legislation for the regulation of charging taxi fares according to meters."

43. Pointing out that the Administration had already studied the issue for years, the Deputy Chairman considered that the wording of the motion might give the Administration an excuse for further procrastination. He highlighted that most members had expressed support for the enactment of the legislation without delay. He stressed the need to send a strong message to the Administration, and moved an amendment to the above motion as follows –

"促請政府立即展開立法規管的士按錶收費的研究，**並盡快向本會提交修訂法案。**"

(Translation)

"That this Panel urges the Government to immediately commence study on the enactment of legislation for the regulation of charging taxi fares according to meters **and to introduce an amendment bill to this Council as soon as possible.**"

The proposed amendment was seconded by Mr Ronny TONG.

44. The Chairman put the motion as amended by the Deputy Chairman to vote. Seven members voted for and no member voted against it. The Chairman declared that the motion as amended by the Deputy Chairman was carried. He requested the Administration to consider the clear message from Panel members in demanding the Administration to submit a legislative proposal on enactment of legislation to regulate charging taxi fares according to meters as soon as possible.

II Issues relating to contracts for the management, operation and maintenance of government tunnels

- (LC Paper No. CB(1)2613/08-09(07) — Administration's paper on contracts for management, operation and maintenance of government tunnels
- LC Paper No. CB(1)2639/08-09(03) — Submission from Hong Kong Tunnel and Highway Employees' General Union's Cross Harbour Tunnel Employees' Branch)

45. AC for T briefed members on the tendering arrangements for procurement of the management, operation and maintenance (MOM) services for Government tunnels.

The weightings for quality and price assessments

46. Highlighting the importance of quality staff to ensuring the management quality and safety of Government tunnels, Mr WONG Kwok-hing and Ms LI Fung-ying expressed concern about the award of Government tunnels' MOM contracts to the lowest tenderer, which in Mr WONG's view might cause tenderers to lower their fee proposals by cutting staff cost and staff exploitation. AC for T responded that relevant tendering arrangements would not restrict tenderers from putting forward fee proposals according to commercial principles. He pointed out that weightings of 40% and 60%, which were the high end of the weightings for quality and price assessments respectively stipulated under the Stores and Procurement Regulations, had been adopted in the last tender for the MOM contract for the Cross Harbour Tunnel (CHT).

47. Ms Miriam LAU opined that the adoption of the weightings of 30%-40% and 60%-70% for quality and price assessments respectively in the MOM contracts for Government tunnels might not help ensure service quality and reasonable pay for tunnel staff because price assessment still took up a weighting of as high as 60%-70%. The result might be that tunnel operators would not increase the pay of their staff in order to contain cost. She opined that to ensure fairness, the weightings should be 50% and 50% for quality and price assessments respectively.

48. Mr IP Wai-ming referred to his earlier discussions with TD on the concerns of Cross Harbour Tunnel Employees' Branch as highlighted in the Branch's submission (LC Paper No. CB(1)2639/08-09(03)), and expressed support for Ms Miriam LAU's suggested weightings. He further highlighted the importance of tunnels as public transport nodes, and pointed out that any labour disputes involving tunnel operators would greatly impact on traffic in Hong Kong. As such, he supported the Branch's request for adjustments to the weightings, so as to ensure reasonable pay for tunnel staff.

49. AC for T responded that to provide safeguards for tunnel staff's pay and to protect their interests, the tenderer was required to meet all the mandatory requirements (such as service standards, manning level requirement, staff experience and qualification requirements) in order to pass Stage 1 of tender evaluation. It would require the successful tenderer to make a first offer of employment to the frontline staff of the then existing contractor. The employment terms and conditions for the existing frontline staff for the first contract year were required to be commensurate with those prevailing in the tunnel industry in Hong Kong. In enforcing the above Stage 1 requirement, statistics on the average market pay for tunnel staff would be provided to tenderers for reference and compliance. These statistics should enable tenderers to better estimate staff costs when bidding for the MOM contract concerned. In addition, TD would work closely with relevant Government departments to ensure that the terms and conditions for the tender documents would take into account all relevant factors, including operational needs and interests of incumbent staff of CHT.

50. Ms Miriam LAU further pointed out that bidders having passed Stage 1 of tender evaluation might have only met the minimum quality assurance requirements. In Stage 2 of the evaluation where the quality proposals of conforming tenders were assessed, as such high weighting of 60%-70% was accorded to price assessment, it might prompt the tenderer to explore ways to lower management cost by cost minimization, which might include reducing expenditures on staff cost. This would compromise service quality and was also unfair to tunnel staff. Moreover, it seemed from the Administration's paper that no regard was given to staff pay for Stage 1 evaluation. AC for T responded that weightings of 30%-40% and 60%-70% were the normal weightings for quality and price assessments respectively as stipulated in the Stores and Procurement Regulations. In recognition of CHT's importance, the weightings adopted in the last tender for the MOM contract for CHT had already been adjusted to 40% and 60%, which were indeed the highest weightings presently permissible. Mr IP Wai-ming, however, considered that the weightings would serve little purpose in addressing tunnel staff's concern about their remuneration.

Tunnel staff's pay

51. Highlighting complaints that CHT staff had not had any pay increase for some ten years, Mr WONG Kwok-hing pointed out that the Government should not allow such to happen. AC for T responded that to his understanding, there were pay increases for skilled staff in the tunnel industry during the past ten years. Mr IP Wai-ming queried his response, and emphasized that it was undesirable that certain tunnel staff had not been offered pay increases in the past ten years despite high inflation during the period.

52. Ms Miriam LAU pointed out that as different from staff of other public facilities, tunnel staff had to receive stringent training and meet high performance standards because tunnels were important facilities affecting road safety, and no operation mistakes could be tolerated. Hence it was important to retain quality staff. The successful tenderer should be required to make a first offer of employment to the frontline staff whose work was directly related to the tunnel operation, management and maintenance under the employment of the then existing contractor. It should also be ensured that their pay was reasonable and would be gradually increased with time. It would therefore be undesirable if certain tunnel staff had not had any pay increase for a long time. The Administration noted her views.

53. Referring to paragraph 5 of the Administration's paper, Mr WONG Kwok-hing opined that if reasonable staff pay and service quality were to be ensured, it might not suffice to only require the employment terms and conditions for the existing frontline staff of Government tunnels to be commensurate with those prevailing in the tunnel industry in Hong Kong for just the first contract year. Ms LI Fung-ying shared his views. To ensure the Administration was committed to ensuring staff stability and hence service quality of Government tunnels, Ms LI asked the Administration to clarify the definitions of the terms "existing frontline staff" and "commensurate with" in the above requirement.

54. AC for T responded that in the case of CHT, the percentage of "existing frontline staff" was as high as some 86%. He further explained that the above requirement had in fact been imposed for the purpose of ensuring smooth transition on contract expiry only. Notwithstanding, the Administration would also require tenderers under the tender to comply in all respects with the Employment Ordinance (Cap. 57) and other relevant legislative provisions in the employment of the staff for performance of the MOM services. It was already stipulated in Cap. 57 that an employer could not, without giving any reasons, introduce changes to the remuneration or employment terms of its staff. This should suffice to safeguard relevant tunnel staff's interests during the whole term of the MOM contract concerned. Moreover, the basic staff experience and qualification requirements specified in the tender document for every grade of staff of the tenderers would also help ensure tunnel staff's salary level.

55. Mr IP Wai-ming remained of the view that the period of the above requirement as referred to by Mr WONG Kwok-hing should be extended from only the first contract year to the whole contract period. He also opined that a reserve fund should be set up under the relevant MOM contract to enable the contractor to meet unanticipated increases in operating costs without the need to cut staff costs. AC for T responded that the Administration had already reminded tenderers to take into consideration likely increase in operating costs during the contract period. Moreover, it had not imposed any ceiling on bidders' fee proposals.

Occupational safety

56. Ms LI Fung-ying expressed concern about the occupational safety of tunnel staff, pointing out that the Administration's monitoring efforts and guidelines in this regard were inadequate because it had solely relied on tunnel operators to set the guidelines. She considered it necessary for the Administration to stipulate more specific measures in this regard in the new round of tendering exercise for the MOM contract for CHT. AC for T responded that there was a team in TD responsible for regularly inspecting tunnel operation. Tunnel operators were also required to provide to TD details on staff training to ensure safe operation. In response to Ms LI's views, the Administration would require CHT tenderers to provide details of the occupational safety plan on how they would ensure operational safety.

57. Ms LI Fung-ying opined that the above efforts would not suffice unless the Administration could include specific safety requirements in the relevant tender documents to facilitate compliance and monitoring. In response, AC for T reiterated that the tenderers would be required to provide details of the safety measures they would take. He assured members that TD would examine the details in conjunction with the concerned works departments to ensure adequacy of the safety measures.

III Any other business

58. There being no other business, the meeting ended at 12:55 pm.