

**立法會**  
**Legislative Council**

LC Paper No. CB(1)2472/10-11  
(These minutes have been seen  
by the Administration)

Ref : CB1/PL/EDEV/1

**Panel on Economic Development**

**Minutes of meeting**  
**held on Tuesday, 19 April 2011, at 4:30 pm**  
**in Conference Room A of the Legislative Council Building**

**Members present** : Hon Jeffrey LAM Kin-fung, SBS, JP (Chairman)  
Hon Ronny TONG Ka-wah, SC (Deputy Chairman)  
Hon CHAN Kam-lam, SBS, JP  
Hon Miriam LAU Kin-ye, GBS, JP  
Hon Emily LAU Wai-hing, JP  
Hon Vincent FANG Kang, SBS, JP  
Hon Andrew LEUNG Kwan-yuen, GBS, JP  
Hon WONG Ting-kwong, BBS, JP  
Hon CHIM Pui-chung  
Hon Starry LEE Wai-king, JP  
Dr Hon LEUNG Ka-lau  
Hon Paul TSE Wai-chun  
Dr Hon Samson TAM Wai-ho, JP  
Hon Tanya CHAN

**Members absent** : Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP  
Dr Hon David LI Kwok-po, GBM, GBS, JP  
Hon Fred LI Wah-ming, SBS, JP  
Hon IP Wai-ming, MH  
Hon Mrs Regina IP LAU Suk-ye, GBS, JP  
Hon Albert CHAN Wai-yip

**Public officers attending** : Agenda item IV

Mr Esmond LEE  
Deputy Secretary for Transport and Housing  
(Transport)

Mr Francis CHENG  
Principal Assistant Secretary for Transport and  
Housing (Transport)

Mr Alan SHUM  
Chief Operations Officer (Air Services)  
Civil Aviation Department

**Clerk in attendance :** Ms Debbie YAU  
Chief Council Secretary (1)6

**Staff in attendance :** Mr Ken WOO  
Council Secretary (1)6

Ms Michelle NIEN  
Legislative Assistant (1)6

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Action

**I Confirmation of minutes of last meeting**

(LC Paper No. CB(1)1902/10-11 - Minutes of meeting held on 28  
February 2011)

The minutes of the meeting held on 28 February 2011 were confirmed.

**II Information papers issued since last meeting**

(LC Paper No. CB(1)1749/10-11(01) - Tables and graphs showing the  
import and retail prices of  
major oil products from March  
2009 to February 2011  
furnished by the Census and  
Statistics Department)

2. Members noted the above information paper issued since the last meeting.

**III Items for discussion at the next meeting**

(LC Paper No. CB(1)1886/10-11(01) - List of outstanding items for discussion

LC Paper No. CB(1)1886/10-11(02) - List of follow-up actions)

3. Members agreed to discuss the following items at the next Panel meeting to be held on 23 May 2011, at 10:45 am:

- (a) Funding proposal for the replacement of a storm detecting weather radar of the Hong Kong Observatory at Tate's Cairn; and
- (b) Proposed amendments to legislation relating to the carriage of dangerous goods by air.

4. The Chairman suggested that if the Administration confirmed by the end of April that it was ready to brief members on "Hong Kong International Airport Master Plan 2030" at the next Panel meeting, the meeting could be advanced to start at 10:00 am. Members agreed.

*(Post-meeting note: Subsequent to the meeting, the Administration has advised that the item will be discussed at a later meeting.)*

**IV Review of the regulatory regime of the Air Transport Licensing Authority for local airlines**

(LC Paper No. CB(1)1886/10-11(03) - Administration's paper on review of the regulatory regime of the Air Transport Licensing Authority

LC Paper No. CB(1)1886/10-11(04) - Paper on issues relating to the Air Transport (Licensing of Air Services) Regulations prepared by the Legislative Council Secretariat (Background brief)

Briefing by the Administration

5. At the invitation of the Chairman, the Deputy Secretary for Transport and Housing (Transport) (DSTH(T)) briefed members on the outcome of the Administration's consultation exercise on the proposals to improve the regulatory regime of the Air Transport Licensing Authority (ATLA). He then outlined the proposed changes to the proposals in the light of the comments received during the consultation exercise, viz. ATLA's general policy, basis for granting licences, submission of business plans and other notification requirements. DSTH(T) pointed out that the stakeholders were in general supportive of the proposals to improve ATLA's regulatory regime. He further advised that the Administration was drafting the relevant legislative amendments to the Air Transport (Licensing of Air Services) Regulations (Cap. 448 sub. leg. A), and aimed to table them at the Legislative Council in the third quarter of 2011.

### Discussion

#### *Proposed changes to the proposals*

6. The Chairman noted the Administration's proposal to adopt an airline-based approach under which each airline would only be granted one licence which would specify the routes to be operated or the regions/countries to be served, and the airline would need to apply to vary the licence conditions if it wished to operate new routes or serve new regions/countries. He enquired whether the proposed changes would hinder the development of airlines. DSTH(T) explained that the proposed change, as opposed to the current route-based approach (i.e. licences granted on specific routes), would minimize the administrative burden on the airlines and ATLA. There would be transitional arrangements for the existing licences held by each airline to be replaced by a single licence which specified the routes that the licence holder was now allowed to operate.

7. The Chairman further asked whether measures would be in place under the new regime to regulate the budget airlines and monitor their financial performance with a view to protecting consumers. DSTH(T) replied that while the Administration welcomed new airlines to be established in Hong Kong, the new regulatory regime sought to ensure that licences would only be granted to those airlines which had the financial capability to operate relevant air services. DSTH(T) said that under the new regulatory regime, an airline applying for an ATLA licence for the first time would need to demonstrate to the reasonable satisfaction of ATLA that it could meet at any time its actual and potential obligations for a period of 24 months and meet its fixed and operational costs for a period of 3 months without any income. DSTH(T) added that as airlines had different positioning and modes of operation, for example, conventional airlines were different from

budget airlines in this regard, it would not be feasible to specify start-up capital requirements. He assured members that under the new regulatory regime, ATLA would consider individual applications prudently and objectively.

*Air passenger fuel surcharges and commissions*

8. Mr Paul TSE expressed grave concern about the Administration's position that the mechanism and remuneration arrangements relating to the sale of air tickets and collection of air passenger fuel surcharges were commercial matters between the airlines and the travel agents. As the matter had a direct bearing on the travel trade and hence public interests, he urged the Administration to make reference to the practice of the civil aviation authority of India and deal with the commission arrangements between the airlines and the travel agents through the licensing mechanism.

9. DSTH(T) replied that according to the bilateral air services agreements (ASAs) that Hong Kong had entered into with its aviation partners, the tariffs to be charged by the airlines for scheduled air services should be those approved by the aeronautical authorities of both Contracting Parties. The Civil Aviation Department (CAD) considered and approved fuel surcharge applications from airlines in accordance with the ASAs. The mechanism and remuneration arrangements relating to the sale of tickets should be determined by airlines and travel agents and CAD would not require airlines to pay a commission to travel agents on the air passenger fuel surcharges as a condition of approving the surcharges. DSTH(T) added that the increasing use of the Internet for purchasing air tickets might explain the gradual reduction in the rates of commissions paid by airlines to travel agents in some overseas places.

10. Mr Paul TSE was unconvinced of the explanation. He pointed out that it would be at the expense of consumers if airlines refused to pay reasonable commissions to travel agents which might then impose a service charge on their customers. He also questioned the justification for airlines to impose air passenger fuel surcharges as other transportation industries were also affected by the fluctuations in international oil prices. Mr TSE also expressed concern that the rates of increases in air passenger fuel surcharges for some airlines were pretty much the same which might be tantamount to price-fixing and distort competition in the market.

11. DSTH(T) said he understood that airlines had been very careful in dealing with tariffs matters vis-à-vis competition law in overseas jurisdictions. DSTH(T) added that levying air passenger fuel surcharges on top of airfares was a common international practice and CAD would continue to process

fuel surcharge applications from airlines in accordance with ASAs.

Conclusion

12. In conclusion, the Chairman said that members in general supported the proposed changes to the proposals to improve the regulatory regime of ATLA.

**V Any other business**

13. There being no other business, the meeting ended at 5 pm.

Council Business Division 1  
Legislative Council Secretariat  
15 June 2011