

立法會
Legislative Council

LC Paper No. CB(2)533/02-03
(These minutes have been
seen by the Administration)

Ref : CB2/BC/25/00

**Bills Committee on
Fire Services (Amendment) Bill 2001**

**Minutes of meeting
held on Tuesday, 12 November 2002 at 9:00 am
in the Chamber of the Legislative Council Building**

- Members Present** : Hon IP Kwok-him, JP (Chairman)
Ir Dr Hon Raymond HO Chung-tai, JP
Hon Miriam LAU Kin-yee, JP
Hon Ambrose LAU Hon-chuen, GBS, JP
Hon Abraham SHEK Lai-him, JP
Hon Michael MAK Kwok-fung
Hon LEUNG Fu-wah, MH, JP
Hon Audrey EU Yuet-mee, SC, JP
- Members Absent** : Hon Cyd HO Sau-lan
Hon James TO Kun-sun
Hon CHOY So-yuk
- Public Officers Attending** : Mr David WONG
Principal Assistant Secretary for Security(B)
- Mr KWOK Jing-keung
Chief Fire Officer (Headquarters)
Fire Services Department
- Mr LAU Kwai-shan
Chief Fire Officer (Licensing and Certification)
Fire Services Department

Mr K P LAI, Allen
Senior Government Counsel
Department of Justice

Mr Damian CHAN
Assistant Secretary for Security(B2)

Attendance by Invitation : Hong Kong Container Tractor Owner Association Limited

Mr Ricky WONG
Chairman

Mr LO Chung-tak
Vice-Chairman

Container Transportation Employees General Union

Mr CHIU Chi-keung
Chairman

Mr TSE Long
Vice-Chairman

Hong Kong Consolidation Freight Station and Logistics Association

Mr WONG Siu-wah
Chairman

Hong Kong Container Drayage Services Association Limited

Mr LAU Shek-tat
Chairman

Medium and Heavy Tractors Concern Group "中重型貨車關注組"

Mr LAI Kim-tak
Chairman

Clerk in Attendance : Miss Flora TAI
Chief Assistant Secretary (2)2

Staff in Attendance : Miss Connie FUNG
Assistant Legal Adviser 3

Mr Stanley MA
Senior Assistant Secretary (2)6

I. Confirmation of minutes
[LC Paper No. CB(2)283/02-03]

The minutes of the meeting held on 15 October 2002 were confirmed.

II. Meeting with deputations

2. The Bills Committee received views from the following deputations on the Bill (index of proceedings attached at **Annex**) -

- Hong Kong Container Tractor Owners Association Limited;
- Container Transportation Employees General Union;
- Hong Kong Consolidation Freight Station and Logistics Association;
- Hong Kong Container Drayage Services Association Limited; and
- Medium and Heavy Tractors Concern Group "中重型貨車關注組".

3. Representatives of the deputations in general expressed support for the enactment of the Bill to ensure public safety in the transportation of vehicles and vehicle spare parts in the territory, as well as to protect the safety of drivers in the trade. However, they expressed grave concern that the Bill would impose an unreasonable burden on drivers and tractor owners because drivers and tractor owners had no right to inspect the contents of the containers; and a goods owner or shipping company could easily cheat a driver and a tractor owner about the goods in the freight container if a third party was appointed to pack the goods in the container.

4. The Vice-Chairman of the Container Transportation Employees General Union stressed that in the interest of public safety, a driver who knowingly stowed or conveyed vehicles or vehicle spare parts in an improper manner should be held liable for the offences under sections 17 and 18 of the draft Fire Service (Fire Hazard Abatement) Regulation (the draft Regulation). He also suggested that the offence of improper conveyance/stowage of motor vehicles in containers should apply in transportation of such goods at sea. The Chairman of the Medium and Heavy Tractors Concern Group "中重型貨車關注組" suggested that the draft Regulation should specify that motor vehicles and their spare parts must be stowed or conveyed in a container which was open at the top or well ventilated. He held a strong view that drivers should not

be held liable for the offences as they had no right to inspect the contents of the container nor decide the type of containers to be used for the transportation of such goods.

5. Members noted that the Federation of Hong Kong Hotel Owners Limited and Mr Henry LEUNG Yiu-cho, member of the Central and Western District Council had made written submissions to the Bills Committee which had been issued vide LC Paper Nos CB(2)302/02-03(01) and (02) respectively.

III. Meeting with the Administration

6. The Bills Committee deliberated on the views and concerns of the deputations, as well as the Administration's response to issues raised at the meeting held on 15 July 2002 from paragraph 21 onwards [LC Paper No.CB(2)22/02-03(01)] (Index of proceedings attached at **Annex**).

7. Members in general shared the views of the deputations that innocent tractor owners and drivers who in practice were unable to ascertain the goods inside the containers should not be held liable for a criminal offence for improper stowage or conveyance of motor vehicles and motor vehicles' spare parts containing residual fuel in an enclosed freight container or goods compartments. Ms Miriam LAU was of the view that the Bill had imposed an onerous liability on drivers and tractor owners which was disproportionate to the object to be achieved by the Bill, i.e. to ensure safe transportation of such goods. She also expressed concern about the interpretation of "knowingly" under sections 17 and 18 of the draft Regulation. The Administration explained that the element of "knowingly" related to the state of mind of the alleged offender. The Court would consider the facts and circumstances in each case to determine whether a driver or tractor owner was knowingly involved in an improper conveyance/stowage. The Administration stressed that it was not the legislative intent to target at innocent drivers and tractor owners. Ms Miriam LAU suggested that the Administration should consider drawing up a code of practices for conveyance of motor vehicles or motor vehicle parts in containers with the trade to facilitate enforcement and compliance with the Regulation.

8. Members noted that the draft Regulation had been approved in principle by the Chief Executive in Council and would be referred back to the Chief Executive in Council for approval after enactment of the Bill. Since the draft Regulation contained detailed provisions regulating improper conveyance/stowage of vehicles/vehicle spare parts on land, members requested that the Administration should thoroughly discuss with the trade and revise the draft Regulation accordingly to address the concerns of the trade before re-submitting the draft Regulation to the Chief Executive in Council for consideration.

9. The Bills Committee requested the Administration to -
- (a) revert to the Bills Committee or the Panel on Security where appropriate with a revised draft Regulation after further consultation with the tractor owners and drivers;
 - (b) consider providing a code of practice for conveyance of motor vehicles or motor vehicle parts in containers to facilitate enforcement and compliance with the Fire Service (Fire Hazard Abatement) Regulation to be enacted; and
 - (c) provide a written response to the submission of the Hong Kong Hotel Owners Limited.

IV. Any other business

Membership

10. The Chairman informed the meeting that Mr Frederick FUNG Kin-kee had notified the Clerk in writing of his resignation from the Bills Committee on 28 October 2002.

Date of next meeting

11. Members agreed to hold the next meeting at 8:30 am on 10 December 2002 to discuss the Administration's response to all the outstanding issues in respect of the Bill.

12. There being no other business, the meeting ended at 11:30 am.

Council Business Division 2
Legislative Council Secretariat
3 December 2002

Annex

**Proceedings of the meeting of the Bills Committee on
Fire Services (Amendment) Bill 2001
on Tuesday, 12 November 2002 at 9:00 am.
in the Chamber of the Legislative Council Building**

Time	Speaker	Subject(s)	Action required
0000 - 0427	Chairman	Confirmation of minutes, resignation of a member and welcoming remarks.	
0428 - 1229	Hong Kong Container Tractor Owner Association Limited	Oral representation.	
1230 - 1859	Container Transportation Employees General Union	Oral representation.	
1900 - 2111	Hong Kong CFS and Logistics Association	Oral representation.	
2112 - 2232	Hong Kong Container Drayage Services Association Limited	Oral representation.	
2233 - 3914	Chairman Ms Miriam LAU Representatives of deputations Mr LEUNG Fu-wah	Whether tractor owners and drivers should be held responsible for offences in relation to improper conveyance/stowage of motor vehicles in containers.	
3915 - 4207	Medium and Heavy Tractors Concern Group "中重型貨車關注組"	Oral representation.	
4208 - 5609	Chairman Ms Miriam LAU Representatives of deputations Mr MAK Kwok-fung Mr LEUNG Fu-wah	Whether tractor owners and drivers should be held responsible for offences in relation to improper conveyance/stowage of motor vehicles in containers.	
5610 - 011529	Ms Miriam LAU Admin Chairman Representatives of deputations	Responsibility of goods owners in law compliance, use of containers which was open at the top or was well-ventilated for conveyance/stowage of vehicles or vehicle spare parts, and the interpretation of "knowingly" in the offence of improper conveyance/stowage of vehicles or vehicle spare parts.	

01 1530 - 01 2150	Mr LEUNG Fu-wah Admin Chairman	Legal responsibilities of goods owners, tractor owners and drivers in conveyance/stowage of containers on land.	
01 2151 - 01 4028	Ms Miriam LAU Admin Representatives of deputations	A code of practice to facilitate compliance with the proposed Regulation and the inclusion of vehicles and their spare parts under the International Maritime Organisation.	
01 4029 - 01 4251	Admin Chairman Ms Miriam LAU	Further consultation with the trade on the proposed Regulation and the preparation of a code of practice for drivers and tractor owners.	See para 9(a) and (b) of the minutes
01 4252 - 01 4652	Ms Miriam LAU Chairman Admin	Admin to provide written response to the written submission of the Hong Kong Hotel Owners Limited.	See para 9(c) of the minutes
01 4653 - 01 4935	Chairman	Continued discussion with the Admin's response to members' concerns at the meeting on 15 July 2002.	
01 4936 - 01 5710	Chairman Admin Ms Miriam LAU	Coverage of insurance against fire.	
01 5711 - 02 0516	Chairman Admin Ms Miriam LAU	Power of Director to make regulations in respect of abatement and prevention of fire hazards.	
02 0517 - 02 0651	Mr LEUNG Fu-wah Admin Chairman	Fire Service installation works.	
02 0652 - 02 0909	Ms Miriam LAU Admin	Liquefied petroleum gas filling station - use of rapeseed oil.	
02 0910 - 02 2440	Chairman	Fire hazard abatement.	
02 2441 - 02 2748	Chairman Ms Miriam LAU	Date of next meeting.	

Note : The audio records of the above proceedings are kept at the LegCo Library

Council Business Division 2
Legislative Council Secretariat
3 December 2002