

**立法會**  
**Legislative Council**

LC Paper No. CB(4)165/15-16  
(These minutes have been seen  
by the Administration)

Ref : CB4/PL/TP/1

**Panel on Transport**

**Minutes of meeting held on  
Tuesday, 16 June 2015, at 2:30 pm  
in Conference Room 2 of the Legislative Council Complex**

**Members present** : Hon Michael TIEN Puk-sun, BBS, JP (Chairman)  
Hon TANG Ka-piu, JP (Deputy Chairman)  
Hon LEE Cheuk-yan  
Hon CHAN Kam-lam, SBS, JP  
Hon WONG Kwok-hing, BBS, MH  
Hon Jeffrey LAM Kin-fung, GBS, JP  
Hon CHAN Hak-kan, JP  
Hon Paul TSE Wai-chun, JP  
Hon LEUNG Kwok-hung  
Hon Albert CHAN Wai-yip  
Hon Claudia MO  
Hon Frankie YICK Chi-ming  
Hon Gary FAN Kwok-wai  
Hon CHAN Han-pan, JP  
Dr Hon KWOK Ka-ki  
Dr Hon Elizabeth QUAT, JP  
Hon POON Siu-ping, BBS, MH  
Ir Dr Hon LO Wai-kwok, BBS, MH, JP  
Hon Christopher CHUNG Shu-kun, BBS, MH, JP  
Hon Tony TSE Wai-chuen, BBS

**Members absent** : Hon James TO Kun-sun  
Hon Ronny TONG Ka-wah, SC  
Hon Mrs Regina IP LAU Suk-ye, GBS, JP  
Hon WU Chi-wai, MH

**Public Officers attending** : **Agenda item III**

Mr YAU Shing-mu, JP  
Under Secretary for Transport and Housing

Mr Andy CHAN, JP  
Deputy Secretary for Transport and Housing  
(Transport)2

Miss Carrie CHANG  
Principal Assistant Secretary for Transport and  
Housing (Transport) 1

Ms Macella LEE  
Assistant Commissioner/Management and Paratransit  
Transport Department

Mr Dannis LEUNG  
Chief Transport Officer/Planning/Taxi  
Transport Department

**Agenda item IV**

Mr YAU Shing-mu, JP  
Under Secretary for Transport and Housing

Mr Andy CHAN Shui-fu, JP  
Deputy Secretary for Transport and Housing  
(Transport)2

Mr José YAM Ho-san  
Principal Assistant Secretary for Transport and  
Housing (Transport)4

Mr Reginald CHAN Ying-kit  
Assistant Commissioner/Bus & Railway

**Agenda item V**

Mr Andy CHAN Shui-fu, JP  
Deputy Secretary for Transport and Housing  
(Transport)<sup>2</sup>

Mr José YAM Ho-san  
Principal Assistant Secretary for Transport and  
Housing (Transport)<sup>4</sup>

**Attendance by invitation : Agenda item IV**

Ms Jeny YEUNG  
Commercial Director  
MTR Corporation Limited

Mr Raymond YUEN  
General Manager – Marketing and Planning  
MTR Corporation Limited

Ms May WONG  
General Manager – Corporate Relations  
MTR Corporation Limited

**Agenda item V**

Ms Gillian Elizabeth MELLER  
Legal Director & Secretary  
MTR Corporation Limited

Ms May WONG  
General Manager – Corporate Relations  
MTR Corporation Limited

**Clerk in attendance :** Ms Sophie LAU  
Chief Council Secretary (4)<sup>6</sup>

**Staff in attendance :** Ms Macy NG  
Senior Council Secretary (4)<sup>6</sup>

Ms Emily LIU  
Legislative Assistant (4)6

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Action

**I. Information papers issued since the last meeting**

- (LC Paper No. CB(4)1027/14-15(01) - Letter from Hon Michael TIEN Puk-sun to the Administration on the seating capacity of public light buses
- LC Paper No. CB(4)1028/14-15(01) - Letter from Hon Gary FAN Kwok-wai on the duty schedule system and pre-employment training arrangements for drivers of franchised bus companies
- LC Paper No. CB(4)1051/14-15(01) - Memorandum referring to the Panel the views and concerns raised by Southern District Council members regarding the inadequate transport service for tourist facilities
- LC Paper No. CB(4)1093/14-15(01) - Letter from Hon Frankie YICK Chi-ming on the directions of conducting the Public Transport Strategy Study
- LC Paper No. CB(4)1107/14-15(01) - Memorandum referring to the Panel the views and concerns raised by Yuen Long District Council members regarding the suggestion of tightening the legislation to forbid illegal parking of bicycles
- LC Paper No. CB(4)1129/14-15(01) - Referral of a complaint case from the Public Complaints

Office of the Legislative Council Secretariat on the policy of driver training and issuing mechanism of driving instructors' licences

LC Paper No. CB(4)1150/14-15(01) - Letter from Hon TANG Ka-piu on the safety issues of works vehicles)

Members noted the above papers issued since the last meeting.

## **II. Items for discussion at the next meeting on 17 July 2015**

(LC Paper No. CB(4)1143/14-15(01) - List of outstanding items for discussion

LC Paper No. CB(4)1143/14-15(02) - List of follow-up actions)

2. Members agreed to discuss the following items at the next regular meeting to be held on 17 July 2015 –

- (a) New franchises for the networks of Citybus (Hong Kong Island and cross harbour routes) and New Lantao Bus Company (1973) Limited;
- (b) Public Transport Strategy Study ("PTSS") - Outcome of the taxi fuel surcharge study; and
- (c) Development of transport infrastructure at Northwest New Territories.

3. The Chairman said that subsequent to the last meeting of the Panel on Transport ("Transport Panel"), he had liaised with the Administration on members' requests to discuss supply of the car parking spaces in urban areas and the regulation of workshops carrying out repair and maintenance of liquefied petroleum gas ("LPG") vehicles. The Chairman reported that the Administration needed more time to prepare the paper for the former. As for the latter, he said that the inter-departmental taskforce led by the Security Bureau was still preparing its report on the incident of Tsz Wan Shan's Garage Blast happened in late April 2015. The Panel on Environmental Affairs ("EA Panel") had also requested the Environment Bureau ("ENB") to prepare

a paper on the use of LPG vehicles in Hong Kong. Since ENB was still preparing the paper, the decision on when the joint meeting of EA Panel and Transport Panel had yet to be confirmed. The Chairman was concerned that since the matter on repair and maintenance of LPG vehicles involved a number of government bureaux and departments and the Transport and Housing Bureau ("THB") was not the major bureau to handle the matter, THB might not be able to explain to members thoroughly about the matter. As such, he consulted members on the way forward.

4. The Deputy Chairman hoped that Transport Panel could discuss the matter in or before July 2015. He said that the Administration should explain to Transport Panel the relevant regulations, and the number of qualified workshops which could carry out repair and maintenance of LPG taxis. He said that quite many such vehicle repair workshops were located in residential areas and posed potential threat to public safety, the matter deserved early attention by the Administration. Mr WONG Kwok-hing concurred with the Deputy Chairman.

5. Given the views of members, the Chairman suggested holding a special meeting to discuss the matter in July 2015. Members agreed.

*(Post-meeting notes: the special meeting to discuss "Regulation of workshops carrying out repair and maintenance of LPG vehicles" was held on 22 July 2015.)*

### **III. Public Transport Strategy Study - Provision of taxi service**

(LC Paper No. CB(4)1143/14-15(03) - Administration's paper on Public Transport Strategy Study - taxi service

LC Paper No. CB(1)238/14-15(07) - Paper on public transport strategy in Hong Kong prepared by the Legislative Council Secretariat  
*(issued on 21 November 2014)*  
(background brief)

LC Paper No. IN13/14-15 - Paper on taxi service in selected places prepared by the Research Office of the Legislative Council Secretariat (information note))

6. The Chairman expressed dissatisfaction with the Administration for its late submission of paper for this item. He reminded the Administration to adhere to the requirement of providing discussion papers to the Transport Panel five clear days before the meeting was held in the future.

7. Under Secretary for Transport and Housing ("USTH") explained that the Administration strived to reflect the latest information in the paper for members' reference and apologized for the late submission. At the invitation of the Chairman, USTH briefed members on the outcome of the Administration's review on the adequacy of taxi service, which was one of the Topical Studies under PTSS. USTH explained that taxis provided a personalized, point-to-point and more comfortable public transport service. There were about 18 000 taxis in Hong Kong, of which about 15 000 were urban taxis, about 2 800 were New Territories ("NT") taxis and 50 were Lantau taxis. The three types of taxis had different operating areas to ensure that the more remote areas were also served. Taxi fares were regulated. In the past five years, the average daily patronage of taxis had remained at around 900 000 to around one million, accounting for less than 10% of the daily patronage of all public transport services in Hong Kong. According to the established policy, the Government would issue new taxi licences as and when necessary, having regard to the demand for taxi service, operating situation of the taxi trade, and likely impact of the increase in the number of taxis on traffic conditions. Based on public feedback and the surveys conducted in the past three years, the supply of urban and NT taxi service was generally adequate at present. For Lantau taxis, survey results and public feedback had shown that there was unmet demand. Future developments on Lantau Island and the projected growth of local population and visitors would further add to the demand for Lantau taxi service. There was therefore a need to issue new Lantau taxi licences. USTH pointed out that while the actual number of new licences required was being studied, the preliminary assessment was that it should be appropriate to increase the number of licenses by about half of the existing number. Further, the Government would review the role and positioning of taxis under the Role and Positioning Review ("RPR") of PTSS. The entire RPR would commence in mid-2015 and was expected to be completed in about two years' time.

#### General views

8. Mr Gary FAN said that the public found the flagfall charge for taxis too high, whereas on the other hand, some taxi drivers reflected that the additional income generated from fare increase was offset shortly by the increase in rental cost of taxis. Mr FAN asked if the Administration had measures to improve the income of taxi drivers as well as taxi service.

9. USTH indicated that the income of taxi drivers had not worsened in the past year. The Administration had recently received taxi fare increase applications from the taxi trade. He said that the Administration had been performing its gate-keeping role while assessing the applications, taking into account factors such as the income of taxi operators, financial viability of taxi operation, and public acceptability. The applications were subject to the approval of the Chief Executive in Council and Legislative Council's agreement. USTH added that the Administration had been monitoring the changes of the income of rentee-drivers, owner-drivers and rentor-owners (i.e. taxi owners who did not drive their taxis but rented them to rentee-drivers). The Administration noted that the extent of increase in rentor-owners' income was indeed relatively less than that of the other two groups.

10. USTH further said that from the passengers' point of view, the urban and NT taxi service could meet the demand in general. As for Lantau taxis, survey results and public feedback had shown that there was some unmet demand. The Administration considered that there was a need to issue new Lantau taxi licences.

11. Mr Frankie YICK noted that the market share of taxis and the income of taxi drivers had dropped. In addition, the taxi trade also encountered difficulties in recruiting taxi drivers due to the relatively low level of income. He asked about the Administration's measures to address the above problems.

12. Assistant Commissioner/Management and Paratransit of the Transport Department ("TD") ("AC/M&P") responded that the Administration had been liaising with the taxi trade to understand their operating difficulties and would duly assess their fare increase applications having regard to, among other things, the change in operating costs and the need to provide a better income to taxi drivers. She said that the taxi trade had proposed to provide training opportunities to newly-recruited taxi drivers. TD would consider such proposals when received.

13. Mr CHAN Kam-lam noted from NT taxi trade that the restricted operating areas of NT taxis had limited the income of the trade. However, if the restricted areas were relaxed, the business of urban taxis would be affected. He considered that the Administration should study the matter as a whole when it reviewed the role and positioning of taxis under RPR of PTSS. Mr CHAN also called on the Administration to work out measures to solve the problem of insufficient urban taxis during peak hours.

14. USTH advised that while the NT taxi trade might have views on its permitted operating areas, the taxi trade as a whole generally agreed that a



balance among urban, NT and Lantau taxis should be maintained. He said that TD would continue to listen to the views of the taxi trade on, whether, and if so how, the permitted operating area arrangements could be refined.

15. Mr WONG Kwok-hing urged that toll concessions should be offered for the return trip of empty taxis using the cross-harbour tunnels and requested the Administration to provide information on explaining the tunnel operators' considerations on his proposal. He also requested that when setting up public transport interchanges ("PTI") or terminus, the Administration should consider the need to include a taxi stand which was always neglected in the current design.

16. In reply, USTH said that among the three cross-harbour tunnels, two were operated by private companies. The Administration would relay the views of Mr WONG to the concerned tunnel franchisees. The proposed toll concession arrangement for taxis needed to be considered by the tunnel franchisees taking into account their business operation.

17. In respect of PTI, AC/M&P said that TD would assess the demand for taxi service while planning for a new PTI. She said that TD had been liaising with the taxi trade on the existing provision for taxi stands and would consider making adjustment to such provision having regard to the development of new towns.

#### Lantau taxi service

18. Noting the Administration's proposal to increase Lantau taxi licences by about half of the existing number, Mr POON Siu-ping and Mr CHAN Han-pan asked how the Administration arrived at the above number. Mr Frankie YICK was concerned over whether the Administration had consulted the trade on the proposal. Mr POON Siu-ping asked about the Administration's timetable of issuing the new licences through tender. Dr KWOK Ka-ki opined that the Administration should increase the number of Lantau taxi licences by 50 in consideration of the rapid population growth on the Lantau Island.

19. AC/M&P explained that there was a noticeable increase in the patronage of Lantau taxis from 2012 to 2014, with the average daily patronage rising from 2 800 to 3 500. Taking into account factors such as the population of the Lantau Island, as well as the number of users of the Hong Kong International Airport and tourists visiting Lantau Island, TD estimated that a total of about 70 to 80 Lantau taxis should be required to meet service demand. USTH and AC/M&P added that the Administration would further

consult the Transport Advisory Committee ("TAC") on the proposal. Subject to the views of TAC, the Administration planned to carry out the tender exercise in late 2015.

20. The Deputy Chairman noted that there was insufficient supply of Lantau taxis during weekends and public holidays whereas there was a surplus during weekdays. To reduce the operating cost of Lantau taxi service, he suggested that the Administration should take the chance of issuing new Lantau taxi licences to provide dedicated LPG filling stations and approved LPG vehicle maintenance workshops in Lantau so that they need not go to other districts for repair service and save some waiting time for gas refill.

21. AC/M&P said that the Administration noted that the average daily net income that a Lantau taxi could generate had improved by about \$100 to about \$1,000 between early 2015 to June 2015. She said that on weekdays, there was a certain demand for Lantau taxi service by tourists travelling from and to the Hong Kong International Airport. She added that there were at present four non-dedicated LPG filling stations on the Lantau Island. She further pointed out that it was the current policy of ENB to expand the number of non-dedicated filling stations only, and undertook to reflect the views of the Deputy Chairman to ENB.

22. As for the suggestion of providing vehicle maintenance workshops for repairing LPG vehicles, AC/M&P explained that maintenance and repair of LPG vehicles not involving the LPG fuel system could in fact be carried out in general vehicle maintenance workshops. However, any work on or in relation to the LPG fuel system should be carried out by the approved vehicle maintenance workshop. She added that the supply of vehicle maintenance service was determined by the market.

23. Mr CHAN Han-pan enquired whether the Administration would accommodate different vehicle mix, such as electric taxis or wheelchair accessible taxis, to be operated on the Lantau Island.

24. USTH said that the Administration would further study the detailed requirements for the new Lantau taxi licences. He added that one of the key considerations would be the adequacy of charging facilities in Lantau. TD would also assist the trade to look into the types of vehicles in the market that could be used as taxis to facilitate wheelchair users. He assured members that TD would take into account the views of the public, market situation and future development of the taxi trade in issuing new Lantau taxi licences.

Illegal carriage of passengers

25. Mr CHAN Kam-lam, Mr POON Siu-ping, Mr Frankie YICK and Mr Paul TSE expressed concern that the business of the taxi trade had been affected by illegal carriage of passengers by vehicles like private cars or light goods vehicles. Mr CHAN Kam-lam and Mr WONG Kwok-hing also called on the Administration to address the problem of taxi drivers offering fare discounts to solicit passengers using taxi hailing mobile applications ("discount gangs"). Mr Frankie YICK added that he strongly disagreed to fare negotiation by taxi passengers and considered that the Administration should enact laws to prohibit such act.

26. USTH said that illegal use of vehicles for carriage of passengers for hire or reward was a matter of law enforcement which would be followed up by the Police. AC/M&P supplemented that TD would meet with the Police and the taxi trade soon to obtain more information to facilitate the Police to take enforcement against such illegal activities.

27. Regarding the discount gangs problem, USTH advised that since the implementation of the existing taxi fare structure (i.e. it should be "front-loaded" and thereafter on a varying descending scale for incremental charges), the situation whereby a taxi driver would offer fare discounts to solicit passengers had become less prevalent. He added that it was illegal for any one to hire a taxi if he/she knew that he/she could not pay the legal fare. The suggestion to enact laws to prohibit bargaining of taxi fares by passengers must be considered carefully. Overseas practice suggested that such a prohibition was not common. In any event, a taxi driver could always turn down any request from passengers to lower the fare. USTH further pointed out that while it was not illegal to provide taxi hailing service through mobile applications, soliciting business by offering discounts, irrespective of the taxi hailing method used, was illegal and the Police would follow up with such cases.

28. Mr Paul TSE and Mr LEUNG Kwok-hung envisaged that there would be difficulties in law enforcement if the drivers of, say, a private car providing and passengers using illegal vehicle service claimed that they were friends and the transport service was provided for free. Mr Paul TSE asked about the relevant legislation governing the matter. He also requested the Administration to provide supplementary information on the number of prosecutions against companies which were engaged in illegal carriage of passengers for hire or reward using private cars by means of accepting booking via mobile phone applications and payment by credit cards.

Admin 29. USTH clarified that carrying passengers for free itself would not infringe the law but using a private car for carriage of passengers for hire or reward without a valid hire car permit issued by TD would. He believed that the Police would be able to take enforcement actions against the above-mentioned illegal act. AC/M&P supplemented that the relevant legislation was laid down in section 52(3) of the Road Traffic Ordinance (Cap 374). She undertook to liaise with the Police for the relevant prosecution figures as per the request of Mr Paul TSE.

### Taxi licences and taxi types

#### *Taxi licences*

30. The Deputy Chairman requested the Administration to study the feasibility of introducing different kinds of taxi licences, such as issuing non-transferrable and time-limited taxi licence for individual taxi drivers. USTH noted that there were different types of taxi licences in other places. The Administration would explore the matter under RPR of PTSS taking into account, amongst other things, the specific circumstances in Hong Kong.

Admin 31. Mr Tony TSE believed that there should be a correlation between the taxi licence premium and taxi fares. In his opinion, increasing taxi fares would not benefit taxi drivers but push up the taxi licence premium. As a result, taxi service could not be improved. He requested the Administration to provide supplementary information on the average income and age of taxi drivers, and the number of persons entering the trade of taxi drivers in the past few years after the meeting.

32. Mr LEUNG Kwok-hung and Dr KWOK Ka-ki attributed the high taxi licence premium to the Government's policy of not issuing new taxi licences which encouraged the speculative activities. Considering that there should be a relationship among taxi licence premium, rental of taxis and taxi fares, Dr KWOK asked whether the Administration would consider issuing time-limited taxi licences.

33. Deputy Secretary for Transport and Housing (Transport)2 ("DS(T)2") said that the Administration had been closely monitoring the taxi licence premium and had been proactively liaising with the Hong Kong Monetary Authority to better understand the market situation. The Administration noted that since the taxi fare was last increased in end 2013, the taxi licence premium had remained relatively stable. This showed that taxi fare increase did not necessarily lead to an increase in taxi licence premium. He added that the

income of taxi drivers had in fact increased after the taxi fare increase. He also said that under RPR of PTSS, the Government would explore whether it would be feasible and meritorious to introduce new types of taxi service, for example premium taxi service, to improve service and meet different passenger demand.

*Taxi types*

34. The Deputy Chairman expressed concern over the safety of LPG taxis subsequent to the incident of the Tsz Wan Shan's Garage accident. He requested the Administration to explore the feasibility of introducing taxis adopting fuel other than LPG. USTH said that the Administration's approach was to promote the use of vehicles running on cleaner fuels. The experience thus far showed that the LPG vehicles were safe. In view of the recent accident, the Administration was studying whether there was room for improvement on the maintenance and repair of LPG vehicles.

35. Mr Frankie YICK noted that the success of Uber had reflected that there was a demand for premium taxi service. He hoped that the Administration would actively address the demand by allowing more types of taxis. Mr LEUNG Kwok-hung and Dr KWOK Ka-ki expressed concern over the inadequate taxi service in Hong Kong. Dr KWOK noted that there was a great demand for wheelchair accessible taxis.

36. DS(T)2 advised that the Administration would study how taxi service could be further enhanced under RPR of PTSS. A major issue to be reviewed was whether it would be feasible and meritorious to introduce new types of taxi service, such as premium taxi service.

**IV. MTR fare adjustment for 2015**

(LC Paper No. CB(4)1076/14-15(01) - MTR Corporation Limited's Paper on adjustment to MTR fares in 2015

LC Paper No. CB(4)922/14-15(08) - Paper on adjustment to MTR fares and the Fare Adjustment Mechanism of the MTR Corporation Limited prepared by the Legislative Council Secretariat (updated background brief)

37. Upon invitation, Commercial Director of the MTR Corporation Limited ("MTRCL") ("CD/MTRCL") briefed members with the aid of powerpoint on the MTR fare adjustment for 2015 at an overall rate of +4.3%, fare promotions offered by MTRCL and its plan for railway service enhancement (LC Paper No. CB(4)1199/14-15(01)).

#### MTR fare increase in 2015

38. Addressing that MTRCL was earning a handsome profit, Mr Gary FAN, Mr POON Siu-ping, Mr LEUNG Kwok-hung, Mr LEE Cheuk-yan and Mr Frankie YICK expressed dissatisfaction with the MTR fare increase in 2015.

39. Mr LEE Cheuk-yan noted that while MTRCL increased the fares on one hand, it offered fare concessions to passengers on the other. In his view, there was no need for MTRCL to increase fares. He expressed doubts on whether MTRCL aimed at maintaining the fare adjustment mechanism of MTRCL ("the FAM") or increasing the base line of fares for fare increase in the next year. He noted that though the FAM was designed to allow fare increase/decrease, there had never been a fare decrease since the FAM was introduced.

40. While considered it reasonable for a corporation to earn profits, Mr Frankie YICK remarked that MTRCL, with the Government being the majority shareholder and was providing public service, should not aim at making too much profits.

41. Mr CHAN Kam-lam hoped that MTRCL would improve its service such that passengers would consider its service value for money. He considered that the Administration should study how the complementarity between road transport service and railway service could be enhanced in terms of convenience and transport expenses because the majority of passengers would take both road-based transport service and railway.

42. Mr Gary FAN opined that although MTRCL had plans to enhance the railway facilities, it should not rely on fare increase to meet the cost as it was the duty of MTRCL to make service enhancement.

43. In response, USTH said that the FAM was provided for under the Operating Agreement which bound both MTRCL and the Administration. CD/MTRCL agreed that it was the duty of MTRCL to enhance its assets irrespective of the fare revenue as fare adjustment was determined by a few economic indexes.

## Review of the FAM

44. The Deputy Chairman, Mr WONG Kwok-hing, Mr Gary FAN, Mr CHAN Han-pan and Mr Frankie YICK urged the Administration to review the FAM as soon as possible. The Deputy Chairman, Dr KWOK Ka-ki and Mr CHAN Kam-lam expressed concern over the timetable of carrying out the next FAM review. Mr CHAN Kam-lam considered it necessary to retain the FAM to regulate the MTR fares.

45. Mr WONG Kwok-hing pointed out that compared to the substantial increase of 34% in the underlying profit of MTRCL in 2014, the effectiveness of the productivity factor (i.e. 0.6%) in the formula of the FAM to moderate fare increase rate was minimal. He also considered that the Administration should adopt the Real Wage Index rather than Nominal Wage Index as included in the formula of the FAM.

46. Mr CHAN Han-pan considered that the FAM should be linked with the service performance and profitability of MTRCL. Mr Frankie YICK considered the existing FAM too simple and could not reflect the operation condition of a corporation, such as overhead expenditure. He considered that the FAM should be linked with MTRCL's profit level and expenditure on asset maintenance.

47. USTH said that the Operating Agreement had stipulated that the FAM of MTRCL should be reviewed every five years. Subject to mutual agreement of the Government and MTRCL, the next FAM review could be advanced. Upon the last FAM review, the FAM was revised to take into account service performance and profitability of MTRCL, as well as affordability of the general public. He advised that the FAM enabled fare reduction during deflation. Due to robust economy in recent years, the FAM allowed increase in fares. In light of the public's views on the FAM, USTH advised that MTRCL was exploring the feasibility of advancing the next FAM review upon the Government's request.

48. CD/MTRCL supplemented that MTRCL would expeditiously study the possible advancement of the next FAM review and was conducting preparatory work such as collecting information and consulting expert advice on the feasibility of the proposal.

49. Mr LEUNG Kwok-hung and Mr Albert CHAN said that they had been objecting to the FAM since the merger of the two railway companies. Mr CHAN was dissatisfied that under the FAM, MTR fares were increased every year whereas the railway service had been deteriorating. To improve

the service, he considered that the bonus of senior management should be linked with the number of railway incidents and passengers' complaints instead of financial performance of MTRCL.

50. CD/MTRCL said that the remuneration packages of MTRCL's senior management were determined by the Remuneration Committee ("RC") under the MTRCL Board. Under the current arrangement, the remuneration of MTRCL's staff at directorate level and above was already linked with the service performance of MTRCL.

#### MTRCL's fare concessions

51. Mr WONG Kwok-hing considered the fare concessions offered by MTRCL in an amount of about \$0.5 billion minimal compared to the increased profits earned by MTRCL in 2014. In his view, MTRCL should use the full amount of additional profit it made in 2014 (i.e. \$3 billion) to offer fare concessions.

52. CD/MTRCL explained that the relatively high increase rate in revenue in 2014 was due to the inclusion of a non-recurrent profit from property development. She added that the repair and maintenance cost of railways was about \$4 billion in past few years but it was increased to \$6 billion in 2014, reflecting that MTR had reached its asset replacement stage.

53. Mr Gary FAN requested MTRCL to extend the "Early Bird Discount Promotion" Programme ("Early Bird Programme") to all stations and increase its amount of fare discount. Mr POON Siu-ping considered that the Early Bird Programme should be extended to cover the evening rush hours.

54. CD/MTRCL explained that the Early Bird Programme aimed at relieving the relatively high train loading situation during the morning peak period. According to MTRCL's statistics, about 80% passengers who passed through the busiest train loading sections of the railway network during the morning peak period would exit from the 29 designated urban stations. MTRCL considered that the coverage of the Early Bird Programme appropriate to achieve the aim.

55. CD/MTRCL added that as no regular pattern of travelling during evening rush hours had been identified, the effectiveness of implementing the Early Bird Programme in the evening to change the travelling pattern of passengers was doubtful. Since the busy hours in the morning were rather focused, MTRCL considered it desirable to continue to implement the Early Bird Programme in the morning.



56. Mr CHAN Han-pan considered that the fare promotions offered by MTRCL too complicated and restrictive. He requested MTRCL to offer again the fare concession of \$2 from the Fare Savers and to increase their number. He also suggested MTRCL to offer interchange concessions for public transport which connected to the MTR stations, and to strengthen its support and care to the community.

57. Given the high profits earned by MTRCL in 2014, the Chairman considered that MTRCL should be more generous in offering fare concessions. He recalled that he had suggested MTRCL reduce the price of monthly pass by \$50 for one year and offer half fare on 12 public holidays in the year. However, MTRCL had only agreed to offer \$50 MTR Shops Cash Coupon for each purchase of "Monthly Pass Extra" for two months and half fare on six public holidays.

58. CD/MTRCL advised that the fare promotions (except "Monthly Pass Extras") for the next 12 months would bring fare savings of approximately \$500 million to passengers. She said that under the "MTR Festive Discount" Promotion Scheme ("Promotion Scheme"), apart from financial considerations, technical factor was also a consideration of MTRCL as the octopus card system had to be adjusted each time. As such, MTRCL had selected six major consecutive festive holidays with more patronage under the Promotion Scheme.

59. The Deputy Chairman also shared the Chairman's views. He said that the fare concessions offered by the MTRCL was less than the additional revenue which would be generated by the 2015 fare increase, i.e. about 600 million.

60. Mr Frankie YICK considered that while MTRCL spent resources to manage the various fare promotional schemes to benefit selected groups of passengers, it could simply lower the rate of fare increase so as to benefit all passengers. Mr POON Siu-ping considered the fare promotional schemes too complex and shared that MTRCL should lower the fare increase rate directly. Mr YICK hoped that MTRCL would offer more fare concessions to the grassroot residents living in remote areas.

61. CD/MTRCL noted the views of members and agreed to give thoughts to them.

Service enhancement

62. Mr POON Siu-ping pointed out that at present, Kowloon Bay, Ngau Tau Kok and Kwun Tong Stations were not provided with air-conditioning service and were very hot during summer. He requested MTRCL to add fans at those stations. Noting that there were 12 service delays in 2014, Mr POON also asked about whether the number of service delays had increased or not in the past three years.

63. CD/MTRCL said that MTRCL was reviewing the platform management arrangements in the Kowloon Bay Station during the evening rush hours in view of the increased patronage. MTRCL would also review how the platform environment could be further improved to enhance the comfort of passengers.

64. General Manager-Corporate Relations of MTRCL ("GM-CR/MTRCL") supplemented that MTRCL was committed to providing the public with safe, reliable and highly efficient railway service. She said that the train punctuality was maintained at 99.9% in the past few years. For the period of January to May 2015, there were three incidents of service disruptions of 31 minutes or above.

65. Dr KWOK Ka-ki opined that since the Government was the majority shareholder of MTRCL, the Government should use the dividends it received from MTRCL to enhance the railway service. USTH said that MTRCL was a listed company and had its own corporate governance. Although the Government was the majority shareholder of MTRCL, the company should follow the listing rules .

*(At 4:39 pm, the Chairman extended the meeting by 15 minutes to allow sufficient time for discussion.)*

**V. Early termination of employment contract of Mr Jay WALDER, former Chief Executive Officer ("CEO") of the MTR Corporation Limited**

(LC Paper No. CB(4)1143/14-15(04) - MTR Corporation Limited's paper on early termination of employment contract of Mr Jay WALDER, former CEO of the MTR Corporation Limited

LC Paper No. CB(4)1143/14 -15(05) - Paper on early termination of employment contract of Mr Jay WALDER, former CEO of the MTR Corporation Limited prepared by the Legislative Council Secretariat (background brief))

66. Upon invitation, the Legal Director & Secretary of MTRCL ("LD&S/MTRCL") delivered an opening statement to the members on the early termination of the employment contract of the former Chief Executive Officer ("CEO") of MTRCL, Mr Jay WALDER. Members noted that Mr WALDER had received a contractual settlement amount of HK\$15.7 million from MTRCL upon his stepping down as CEO of MTRCL on 15 August 2014.

67. Mr WONG Kwok-hing was dissatisfied that members of RC of MTRCL and the Government representatives in the MTRCL Board did not attend the meeting under this agenda item, reflecting that MTRCL and the Government did not respect the Legislative Council. Mr WONG considered that Mr WALDER should be held responsible for the delay and cost overrun of the Hong Kong section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link project ("the XRL Project"). However, the exit package offered to Mr WALDER did not reflect that MTRCL had imposed any penalty on Mr WALDER. Mr WONG expressed concern as to the reasons for the early termination of Mr WALDER's employment contract.

68. Mr LEUNG Kwok-hung said that it was commonly known that, according to the Employment Ordinance (Cap. 57) ("EO"), a party who had unilaterally terminated an employment contract without sufficient notice period should pay a sum in lieu of the notice period to the other party of the contract. He queried whether MTRCL had terminated the employment contract of Mr WALDER to preserve the interests of MTRCL. In his view, if Mr WALDER had made a critical mistake, he should have been dismissed and should not have been given the contractual settlement.

69. The Chairman asked whether MTRCL initiated the termination of Mr WALDER's employment contract. Referring to the criticisms against Mr WALDER made by the Independent Board Committee set up by MTRCL ("IBC") in its report and his observation of Mr WALDER and the former Projects Director of MTRCL in May 2014, the Chairman considered that Mr WALDER had failed to duly monitor the XRL Project.

70. In response, LD&S/MTRCL and GM-CR/MTRCL said that back in 2013, MTRCL announced that Mr WALDER's employment contract had been extended up to August 2015. At that time, a consensus had been reached that he would not further renew his contract upon its expiry for personal reasons. In July 2014, in light of the challenges that lay ahead for MTRCL, Mr WALDER and the MTRCL Board of Directors mutually agreed that it would be beneficial for MTRCL to be taken forward under a new leader who could provide a long term commitment to MTRCL. Accordingly, the MTRCL Board of Directors and Mr WALDER reached a mutual agreement that Mr WALDER would step down as CEO on 15 August 2014.

71. Mr Gary FAN considered that, since MTRCL had not explained in detail the early termination of the employment contract of Mr WALDER, it gave rise to the perception that MTRCL was covering up the reasons for the slippage of the XRL Project by giving "hush money" to Mr WALDER. He noted that both the IBC and the Independent Expert Panel set up by the Government had pointed out the shortcomings of MTRCL in respect of the XRL Project. He asked whether MTRCL had ever considered terminating Mr WALDER's contract without notice or payment in lieu due to fraud and dishonesty according to section 9 of EO. Mr Gary FAN also asked about the specific details of the EO and the relevant terms of Mr WALDER's employment contract which provided for the payment of the contractual settlement to Mr WALDER.

72. LD&S/MTRCL explained that MTRCL took seriously its obligations under employment contracts and the EO as a fair employer. She said that the EO did not specify what payment should be made to employees in circumstances where his/her employment was terminated by mutual agreement. Therefore, the amount of the contractual settlement had been discussed and mutually agreed between MTRCL and Mr WALDER. MTRCL had looked into the conditions of Mr WALDER's employment contract and taken into account the fact that the contract required a 12-month notice period. In respect of the EO, MTRCL had made reference to how the Ordinance would have operated had MTRCL unilaterally decided to give Mr WALDER notice to terminate his employment contract. Under those circumstances, MTRCL would have paid Mr WALDER a sum in lieu of the notice period as stated in the contract.

73. Mr CHAN Kam-lam considered it contradictory that, on the one hand, MTRCL claimed that neither Mr WALDER's employment contract nor the EO provided for specific payments to be made to an employee whose employment contract was terminated by mutual agreement. Whereas, on the other hand, MTRCL paid a contractual settlement to Mr WALDER according to the terms

of Mr WALDER's employment contract and the EO. It gave the impression that the contractual settlement was a condition for Mr WALDER's departure. Mr CHAN requested MTRCL to explain clearly how the contractual settlement was calculated.

74. LD&S/MTRCL explained that the EO did not set out how the amount of money to be paid to the employee should be calculated in circumstances where his employment contract was terminated by mutual agreement. But, for any contract, it was always open to the parties either to vary or to agree to terminate the contract at any time. She advised that the amount of the contractual settlement had been subject to negotiation and agreement with Mr WALDER. As a listed company, MTRCL was required under the listing rules to have an RC, which could either be an advisor to the Board or have delegated authority from the Board to determine both the remuneration packages for the CEO and members of the Executive Directorate, and also to determine any compensation payable to them for loss or termination of their office or appointment. Each of the remuneration packages and/or the compensation payable for loss of office was determined on an individual basis, reflecting the circumstances of the employee and the role they were undertaking.

75. Mr Paul TSE asked whether Mr WALDER had made any concession regarding his entitled remuneration package and whether the MTRCL Board of Directors had taken independent legal advice regarding the position of MTRCL and whether MTRCL acted accordingly.

76. LD&S/MTRCL explained that, when Mr WALDER's employment contract was terminated in August 2014, there were still about 13 months remaining within the contract period, which originally should have ended in August 2015. She advised that MTRCL did not pay Mr WALDER in lieu of his 12-month notice period, but that this was used as a reference point by both RC and the MTRCL Board when they were deciding and negotiating the amount of the contractual settlement. She added that, under Mr WALDER's employment contract, he was granted a derivative interest in respect of a certain number of shares of MTRCL and only a proportion of the shares were actually paid at the time when his contract was terminated. She said that both the MTRCL Board of Directors and Mr WALDER had engaged independent legal advisers. The contractual settlement paid to Mr WALDER was approved by the RC.

**VI. Any other business**

77. There being no other business, the meeting ended at 5:10 pm.

Council Business Division 4  
Legislative Council Secretariat  
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