

**立法會**  
**Legislative Council**

LC Paper No. CB(4)1143/15-16  
(These minutes have been seen  
by the Administration)

Ref : CB4/PL/EDEV

**Panel on Economic Development**

**Minutes of meeting**  
**held on Tuesday, 19 April 2016, at 10:45 am**  
**in Conference Room 1 of the Legislative Council Complex**

- Members present** : Hon James TIEN Pei-chun, GBS, JP (Chairman)  
Hon Jeffrey LAM Kin-fung, GBS, JP (Deputy Chairman)  
Hon Andrew LEUNG Kwan-yuen, GBS, JP  
Hon WONG Ting-kwong, SBS, JP  
Dr Hon LAM Tai-fai, SBS, JP  
Hon Albert CHAN Wai-yip  
Hon Steven HO Chun-yin, BBS  
Hon Frankie YICK Chi-ming, JP  
Hon YIU Si-wing, BBS  
Hon Gary FAN Kwok-wai  
Hon Charles Peter MOK, JP  
Hon CHAN Yuen-han, SBS, JP  
Hon Kenneth LEUNG  
Hon Dennis KWOK  
Hon Christopher CHEUNG Wah-fung, SBS, JP  
Dr Hon Fernando CHEUNG Chiu-hung  
Hon SIN Chung-kai, SBS, JP  
Dr Hon Elizabeth QUAT, JP  
Ir Dr Hon LO Wai-kwok, SBS, MH, JP  
Hon CHUNG Kwok-pan  
Hon Tony TSE Wai-chuen, BBS
- Members absent** : Hon CHAN Kam-lam, SBS, JP  
Dr Hon LEUNG Ka-lau  
Hon Paul TSE Wai-chun, JP  
Hon WU Chi-wai, MH  
Hon TANG Ka-piu, JP

**Public Officers  
attending**

: Agenda item IV

Financial Services and the Treasury Bureau

Mr Gary POON

Principal Assistant Secretary for Financial Services  
and the Treasury (Treasury) (Revenue)

Civil Aviation Department

Mr Kevin CHOI

Deputy Director (Special Duties)

Mr Stewart SHUM

Chief Treasury Accountant

Mr Cliff TSE

Senior Treasury Accountant

Agenda item V

Transport and Housing Bureau

Miss Joey LAM, JP

Deputy Secretary for Transport and Housing  
(Transport)5

Ms Louisa YAN

Principal Assistant Secretary for Transport and  
Housing (Transport)10

Marine Department

Mr YU Ying-wai

Assistant Director/Multi-lateral Policy (Acting)

Mr HO Wing-hong

Chief, Marine Accident Investigation and Shipping  
Security Policy

Mr SHI Qiang  
Senior Surveyor of Ships/Technical Policy 1

Agenda item VI

Transport and Housing Bureau

Miss Joey LAM, JP  
Deputy Secretary for Transport and Housing  
(Transport)5

Ms Louisa YAN  
Principal Assistant Secretary for Transport and  
Housing (Transport)10

Marine Department

Mr LAI Chi-tung  
Assistant Director/Port Control

**Clerk in attendance :** Ms Shirley CHAN  
Chief Council Secretary (4)5

**Staff in attendance :** Ms Anki NG  
Senior Council Secretary (4)5

Ms Lauren LI  
Council Secretary (4)5

Ms Zoe TONG  
Legislative Assistant (4)5

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Action

**I. Confirmation of minutes of meeting**

(LC Paper No. CB(4)861/15-16 — Minutes of policy briefings cum meeting on 26 January 2016)

The minutes of policy briefings cum meeting on 26 January 2016 were confirmed.

## **II. Information papers issued since the last regular meeting**

(LC Paper No. CB(4)802/15-16(01) — Submission from the Joint Alliance of Public Cargo Working Area dated 24 March 2016 on outcome of the review on Public Cargo Working Areas (Chinese version only) (Restricted to members only)

LC Paper No. CB(4)817/15-16(01) — Administration's paper on tables and graphs showing the import and retail prices of major oil products from March 2014 to February 2016

LC Paper No. CB(4)859/15-16(01) — Letter from Hon WONG Yuk-man dated 6 April 2016 addressed to the Public Accounts Committee on the new Air Traffic Control System (Chinese version only)

LC Paper No. CB(4)860/15-16(01) — Letter from Hon TANG Ka-piu dated 6 April 2016 on provision of a mandatory cooling-off period for consumer contracts involving pre-payment for services (Chinese version only)

2. Members noted the above papers issued since the last regular meeting.

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

(LC Paper No. CB(4)850/15-16(01) — List of outstanding items for discussion

LC Paper No. CB(4)850/15-16(02) — List of follow-up actions)

3. Members agreed to discuss the item on "Implementation of the Trade Descriptions (Unfair Trade Practices) (Amendment) Ordinance 2012" at the next regular meeting scheduled for Monday, 23 May 2016 at 10:45 am.

4. The Chairman said that members could inform the Clerk if they wished to propose any discussion items.

#### **IV. Refunding of Air Passenger Departure Tax**

(LC Paper No. CB(4)850/15-16(03) — Administration's paper on air passenger departure tax

LC Paper No. CB(4)850/15-16(04) — Paper on the air passenger departure tax prepared by the Legislative Council Secretariat (background brief)

LC Paper No. CB(4)258/15-16(01) — Letter from Hon SIN Chung-kai dated 23 October 2015 addressed to the Panel on Financial Affairs on refunding of air passenger departure tax by airlines (Chinese version only)

#### Presentation by the Administration

5. At the invitation of the Chairman, Principal Assistant Secretary for Financial Services and the Treasury (Treasury) (Revenue) ("PAS(Tsy)") briefed members on the requirements under the Air Passenger Departure Tax Ordinance (Cap. 140) ("the Ordinance") for collection and refund of air passenger departure tax ("APDT"). With the aid of power-point presentation material, Chief Treasury Accountant of the Civil Aviation Department ("CTA") briefed members on the practical arrangements for collection of APDT, the refund arrangement for passengers who had paid APDT but eventually did not depart Hong Kong by air, and the way forward for drawing up clear guidelines for airlines to follow in making APDT refund. Details of the presentations were set out in the Administration's paper (LC Paper No. CB(4)850/15-16(03)).

*(Post-meeting note: The power-point presentation material provided by the Administration was issued to members vide LC Paper No. CB(4)898/15-16(01) on 19 April 2016.)*

Discussion

*Arrangements for collecting and refunding APDT*

6. Given that there were many channels nowadays for consumers to purchase air tickets, Mr Jeffrey LAM enquired about the detailed arrangement for collection of APDT by airlines, the mechanism for monitoring airlines paying the collected APDT to the Government and if any cases of omission were found in receiving the collected APDT.

7. Deputy Director (Special Duties) ("DD/SD") of the Civil Aviation Department ("CAD") advised that APDT was in practice collected by airlines together with the airfare upon selling of air tickets via various channels, and airlines were required to deposit the amount of APDT collected in a bank account designated by CAD. Airlines were required to submit to CAD monthly APDT returns reporting on the number of departing passengers carried on their flights, and the amount of APDT collected which should be made payable to the Government. CAD would check and verify the APDT returns submitted by airlines, and conduct random checks on the number of departing passengers on flights to see whether they were consistent with the information reported in the APDT returns. So far, it had not detected any non-compliance in the random checks previously conducted.

8. Pointing out that the Administration should safeguard the interests of consumers, Miss CHAN Yuen-han enquired if the Administration had adopted any measures to ensure that airlines would comply with the requirement under section 14(1) of the Ordinance that APDT paid to an operator by a passenger who did not depart by air from Hong Kong on the occasion in respect of which he had paid the tax should be refunded by the operator prior to the survey conducted by the Consumer Council in 2015.

9. DD/SD responded that CAD had all along been reminding airlines that they were required to make full refund of APDT to the passengers under the above circumstances, and that they were not allowed to impose any charge for the refund of APDT. So far, CAD had only received 10 complaint cases from 2006 to 2015 about airlines not making APDT refund or collecting handling charge when making refund. In all these 10 cases, CAD had followed up with the airlines involved, and the passengers concerned eventually received full APDT refund from the airlines. The Administration would keep monitoring the situation.

10. Mr Jeffrey LAM and Mr Kenneth LEUNG enquired about the arrangement for airlines making APDT refund. CTA advised that refund applications were generally made at the point of sale of the air tickets and

individual airlines and their agents might have different APDT refund arrangements. PAS(Tsy) supplemented that APDT refund was generally arranged together with airfare refund by airlines to the passengers concerned.

11. Mr Kenneth LEUNG expressed concern about the processing time for APDT refund and suggested that the Administration should require airlines to make performance pledges on the processing time for making such refund. He also suggested that CAD should announce the names of the airlines if a certain percentage of their APDT refunds were not made in accordance with their performance pledges. DD/SD advised that the working group set up by CAD and the Board of Airline Representatives in Hong Kong ("Working Group") would consider the suggestions put forward by Mr LEUNG.

12. Mr Albert CHAN requested the Administration to disclose more information about airlines' refund arrangements, including the names of the airlines which took a long time to make refund. DD/SD responded that the existing mechanism was put in place to verify the number of departing passengers carried on airlines flights and the amount of APDT collected by them and payable to the Government, so as to protect the Government revenue and ensure that APDT was collected from each passenger departing by air. As for the information on airlines' APDT refund arrangements, CAD had been collecting relevant information from airlines and would disclose it as necessary upon receipt of their responses.

13. Dr LAM Tai-fai opined that the information on the amount of APDT collected by airlines from passengers who eventually did not depart from Hong Kong by air was payable to the passengers and should have been clearly reflected in airlines' audited financial statements, and hence readily available. Dr LAM asked the Administration to provide information in tabulated form on such amount, and the amount of APDT that had not been refunded to such passengers by airlines since APDT was collected by airlines upon the sale of air tickets in 1998. The Administration undertook to check with the airlines whether they kept such information, and would provide the relevant information if available.

Admin

*Retention of unclaimed APDT by airlines*

14. Mr SIN Chung-kai enquired whether the unclaimed APDT were currently retained by the Administration or the airlines concerned. Noting that CAD had implemented various measures to ensure compliance of airlines with the statutory requirements when making APDT refund, he expressed concern about the effectiveness of these measures and whether all APDT refunds would be made properly upon applications in future.

15. DD/SD advised that the APDT that had not been refunded to passengers were currently retained by the relevant airlines whereas only the APDT paid by passengers who had already departed by air would be transferred to the Government. CAD would collect more information from the airlines on this matter and work out the enhanced refund arrangement with airlines through the Working Group. Mr SIN expressed grave concern about the retention of unclaimed APDT by the airlines and urged the Administration to take appropriate action to retrieve the APDT retained by the airlines. The Chairman urged CAD to work with airlines on improving the refund arrangement.

16. Mr YIU Si-wing considered that instead of just the 10 complaint cases received by CAD, airlines or travel agents failing to make APDT refund or collecting handling charge when making such refunds was probably a more common problem in reality. He suggested that the Administration should urge airlines to enhance the refund arrangement by, for example, standardizing the application channels and processing time, say within six weeks, for refund applications. DD/SD advised that the Working Group would consider the suggestions put forward by Mr YIU, and develop appropriate guidelines on application channels and processing time for APDT refund for the airlines to follow.

17. Opining that the Administration had not monitored closely the refund of APDT by airlines in the past, Mr CHUNG Kwok-pan enquired about the amount of unclaimed APDT, the amount of handling charge collected by airlines when making previous APDT refunds, and whether there was a time limit for claiming APDT refund.

18. DD/SD advised that as long as the passengers did not depart from Hong Kong by air, they should not be charged for the APDT and, in accordance with the Ordinance, any paid APDT should be refunded by the operator without imposing a charge. To enhance public awareness, the Administration would step up publicity on the entitlement to APDT refund and the relevant application and complaint channels. It would also review the information provided by airlines on APDT refund and work out the future refund arrangement in the Working Group platform, taking into account members' suggestions, in a timely manner. He added that the Administration would request airlines to make refund of the handling charge in case any had been collected by airlines when making previous APDT refunds.

*Penalties on retention of APDT*

19. Mr SIN Chung-kai enquired whether the Ordinance provided for penalties against airlines not making APDT refund to passengers as appropriate, and if any penalty had been imposed on the airlines involved in the complaint cases.



20. DD/SD advised that under the Ordinance, penalties would be imposed if an operator failed to maintain proper records or furnish returns to the Director-General of CAD ("the Director") giving details of passengers and aircraft departures, and such other information relating to the collection of APDT or the APDT collected as the Director might require. However, there was no express provision in the Ordinance for imposing penalties on operators not refunding APDT to the relevant passengers. CAD would keep liaising with the aviation industry on the procedures of refund arrangement and monitor the situation. If the situation deteriorates, the Administration would consider taking further measures, including the need to resort to amending the law to impose penalties on airlines which were found incompliant with the requirements.

21. PAS(Tsy) added that, under the current Ordinance, CAD already had the power to require airlines to regularly furnish returns giving details of passengers and aircraft departures and other information relating to APDT collection, which could cover additional information on APDT refund made by airlines (including information on passengers who had not departed from Hong Kong after buying air tickets and paying APDT to the airlines). This would enable CAD to strengthen the monitoring of airlines in making APDT refund to the passengers concerned.

22. Mr YIU Si-wing and Miss CHAN Yuen-han expressed concern about the lack of penalties imposed on airlines which did not make APDT refund to the passengers concerned. Mr YIU suggested that CAD could impose a fine or announce the names of the airlines which did not make APDT refund according to the requirements. The Chairman supported announcing the names of the non-complying airlines so as to step up the deterrent effect against non-compliance. DD/SD undertook that on receipt of further information from airlines regarding their refund arrangements, CAD would consider the need of imposing appropriate penalties on airlines for not refunding APDT in accordance with the statutory requirements.

23. Mr Albert CHAN sought advice from the Panel's legal adviser on whether airlines not refunding APDT to the passengers concerned in accordance with the statutory requirements under the Ordinance constituted a criminal offence. The Chairman instructed the Clerk to relay Mr CHAN's request to the Panel's legal adviser for written advice.

*(Post-meeting note: The legal advice provided by the Legal Service Division was issued to members vide LC Paper No. CB(4)1146/15-16(01) on 21 June 2016.)*

*Others*

24. In response to Mr CHUNG Kwok-pan's further enquiry, DD/SD advised that the Airport Construction Fee ("ACF") would be collected for the new three-runway system project pursuant to the Airport Authority Ordinance (Cap. 483), while APDT was collected in accordance with the Ordinance which was a separate piece of legislation. That said, CAD would share with the Transport and Housing Bureau and the Airport Authority Hong Kong the APDT collection and refund arrangements for their reference with respect to ACF. On the enquiry on the use of the APDT collected, PAS(Tsy) said that similar to other kinds of tax, APDT received was credited to the Government's general revenue for meeting public expenditure on various areas.

Conclusion

25. The Chairman invited the Administration to take note of members' various concerns raised at the meeting.

**V. Incorporating in local legislation the latest standards of the International Maritime Organization**

(LC Paper No. CB(4)850/15-16(05) — Administration's paper on incorporating in local legislation the latest standards of the International Maritime Organization)

Presentation by the Administration

26. At the invitation of the Chairman, Deputy Secretary for Transport and Housing (Transport)<sup>5</sup> ("DSTH") introduced the proposed legislative amendments to incorporate in local legislation the requirements set out in the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, ("STCW Convention") and the International Convention for the Safety of Life at Sea ("SOLAS") adopted by the International Maritime Organization ("IMO"). Details of the presentation were set out in the Administration's paper (LC Paper No. CB(4)850/15-16(05)).

Discussion

*Implementation of international requirements*

27. The Chairman enquired about the timing of IMO adopting the amendments to the STCW Convention and SOLAS in question. DSTH advised that IMO adopted a major revision to the STCW Convention in 2010,

commonly known as the "Manila Amendments", to keep training standards in tandem with new technological and operational requirements. The Manila Amendments entered into force on 1 January 2012, with a five-year transitional period ending on 1 January 2017 by which seafarers must be certified and trained according to the new standards. Regarding the requirement for verifying the gross mass of cargoes ("VGM") under SOLAS, Senior Surveyor of Ships, Technical Policy 1 of MD ("SS/MD") advised that IMO adopted such requirement in November 2014.

28. The Chairman expressed concern about the delay in incorporating the said international requirements in local legislation. Mr Frankie YICK expressed a similar concern. DSTH advised that the Marine Department ("MD") had taken administrative measures to notify the shipping industry of the amendments concerned and ocean-going vessels had been in compliance with the SOLAS requirements (except the new VGM requirement which would come into operation globally from 1 July 2016). Failure to incorporate these latest requirements into local legislation might lead to detention or more frequent inspection of Hong Kong registered vessels by other Convention countries.

*Requirement on verifying the gross mass of cargoes*

29. Mr Frankie YICK noted that under the new VGM requirement, shippers would be required to verify the gross mass of cargoes before loading the packed containers on board. He relayed the grave concern of the industry about the enforcement actions to be taken on packed containers transshipped from the Mainland and the logistics problems brought about if the weight of constituent packages, cargoes and load of the transshipment containers should be re-verified in Hong Kong. He was also worried if these issues could be resolved by 1 July 2016 when the VGM requirement came into effect.

30. DSTH advised that MD had started to discuss with the industry about the VGM requirement since 2013. To facilitate the industry to meet with the requirement, MD would brief stakeholders (including shippers, freight forwarders, carriers, terminal operators, authorized weigh-scale operators, etc.) on the practical arrangements and procedures through townhall meetings in April and May 2016. She concurred with Mr Frankie YICK that weighing the whole packed container would not be a preferred method and thus the Administration would give more guidance to the industry on the way of adding up the weight of the constituent packages, cargoes and loads ("the addition method"). A trial run on workflow and documentation involving MD, shippers and terminal operators would be conducted in late May 2016. The procedures would be fine-tuned in light of feedback to ensure smooth implementation.

31. On enforcement, DSTH remarked that transshipment containers from the Mainland which already had their weight verified at their ports of origin would not require re-verification in Hong Kong and VGM documentation obtained in accordance with the guidelines published by Mainland authorities would be accepted by MD. It was estimated that the new requirement would apply to about 4 600 twenty-foot equivalent units daily. SS/MD supplemented that shippers of these affected containers could register with MD for verifying the gross weight of their containers by the addition method and MD would accept the VGM documentation provided by the registered shippers using such method. MD would conduct random checks on the compliance of 150 registered shippers annually and conduct spot checks at the container terminals by weighing the packed containers.

*Training and certification requirements for seafarers*

32. Miss CHAN Yuen-han enquired about the implementation of the training and certification requirements for seafarers in accordance with the Manila Amendments, measures to be taken by MD to retain these seafarers and their promotion prospects. Chief, Marine Accident Investigation and Shipping Security Policy of MD advised that institutions such as the Maritime Services Training Institute had already been providing the necessary trainings to seafarers in implementing the Manila Amendments. MD would issue certificates to seafarers who had completed the trainings to prove that they were in compliance with the requirements. He added that seafarers were required to obtain different kinds of certificate of proficiency in order to discharge the corresponding duties and this requirement should be considered separately from their promotional prospects.

*High speed craft*

33. In response to Miss CHAN Yuen-han's enquiry, DSTH advised that high speed crafts travelling between Hong Kong and Macau/Mainland had not been included in the 2000 International Code of Safety for High Speed Craft adopted by IMO. Nevertheless, the Administration would cover them when amending the local legislation to reflect the new SOLAS requirements.

Conclusion

34. Summing up, the Chairman concluded that members endorsed in principle the proposed legislative amendments for incorporation in local legislation. The Panel noted that the legislative amendments in relation to the SOLAS and STCW requirements would be tabled at Legislative Council ("LegCo") by negative vetting.

**VI. Proposed amendments to the Pilotage Order (Cap. 84C) and Pilotage (Dues) Order (Cap. 84D)**

(LC Paper No. CB(4)850/15-16(06) — Administration's paper on Pilotage (Amendment) Order 2016 and Pilotage (Dues) (Amendment) Order 2016

LC Paper No. CB(4)850/15-16(07) — Paper on the Pilotage Order (Cap. 84C) and Pilotage (Dues) Order (Cap. 84D) prepared by the Legislative Council Secretariat (background brief))

35. DSTH briefed members on the proposed amendments to the Pilotage Order (Cap. 84C) and the Pilotage (Dues) Order (Cap. 84D) under the Pilotage Ordinance (Cap. 84). The proposed amendments were related to pilotage class, experience required for progression of pilots, berth information and the amount of pilotage dues.

Discussion

*Pilotage class*

36. Given that there had been more vessel collision incidents at the container terminals which were believed to be in relation to the insufficient experience of pilots, Mr Frankie YICK supported the proposal of adding two more levels of Class II pilotage to the existing four-level scale so that pilots could acquire the necessary experience in handling larger vessels in a progressive manner.

37. In response to Miss CHAN Yuen-han's enquiry about the pilotage class of the current 108 licensed pilots, DSTH advised that 92 of them were with a Class I licence while the rest were Class II pilots. DSTH added that pilots were required to accumulate the required experience stipulated in the relevant legislation for advancement.

*Manpower supply of pilots*

38. Noting that the retirement age of licensed pilots had been extended and the requirement of compulsory pilotage for vessels under 3 000 gross tonnage on certain routes had been removed, Mr Frankie YICK enquired if these measures had helped alleviate the problem of manpower shortage of pilots. DSTH advised that the number of licensed pilots was maintained at around 105 to 108 and the Maritime and Aviation Training Fund was in place to support the

trainings of seafarers for the industry. Together with the extension of the retirement age of pilots, the manpower supply for the provision of pilotage services was sufficient to meet the service demand.

39. Miss CHAN Yuen-han enquired whether overseas pilots would be recruited to provide pilotage services in Hong Kong. DSTH advised that since it was essential for pilots to be familiar with the conditions of Hong Kong waters, all pilots licensed by the Director of Marine in the capacity of Pilotage Authority to provide pilotage services were recruited locally. Miss CHAN supported this arrangement which could provide local maritime workforce with more opportunities of career development.

*Pilotage dues*

40. Mr Frankie YICK considered that the Administration's proposal to increase the pilotage dues by an average of 8% was reasonable since the average yearly increase following the last dues revision in 2012 was only 2%. In addition, this proposal was made after a long discussion between the Hong Kong Pilots Association and the Hong Kong Liners Shipping Association. As such, he expressed support for the proposal.

*Others*

41. Upon the request of Mr Frankie YICK, DSTH undertook to provide written information on the gross tonnage, length and the number of containers on board of the vessels visiting Hong Kong in the past three years.

*(Post-meeting note: The Administration's written response was issued to members vide LC Paper No. CB(4)991/15-16(01) on 17 May 2016.)*

Conclusion

42. Summing up, the Chairman concluded that members were generally supportive of the legislative proposal, which would be tabled at LegCo by negative vetting.

**VII. Any other business**

43. There being no other business, the meeting ended at 12:08 pm.