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**Panel on Security
and
Panel on Manpower**

**Minutes of joint meeting
held on Friday, 4 April 2003 at 4:30 pm
in the Chamber of the Legislative Council Building**

**Members
present** : Panel on Security

Hon LAU Kong-wah (Chairman)
Hon James TO Kun-sun (Deputy Chairman)
Hon Albert HO Chun-yan
* Dr Hon LUI Ming-wah, JP
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon Andrew WONG Wang-fat, JP
Hon WONG Yung-kan
Hon Howard YOUNG, JP
* Hon Ambrose LAU Hon-chuen, GBS, JP
Hon IP Kwok-him, JP
Hon Audrey EU Yuet-mee, SC, JP

Panel on Manpower

Hon LAU Chin-shek, JP (Chairman)
Hon CHAN Kwok-keung (Deputy Chairman)
Hon Kenneth TING Woo-shou, JP
Hon Cyd HO Sau-lan
Hon LEE Cheuk-yan
Hon LEUNG Yiu-chung
Hon Andrew CHENG Kar-foo
Hon SZETO Wah
Hon LI Fung-ying, JP
Hon Tommy CHEUNG Yu-yan, JP

Members absent : Panel on Security
Hon Margaret NG
* Hon CHEUNG Man-kwong
* Hon Michael MAK Kwok-fung

Panel on Manpower

Hon CHAN Yuen-han, JP
Hon YEUNG Yiu-chung, BBS
Hon LEUNG Fu-wah, MH, JP
Hon Frederick FUNG Kin-kee

* also a member of Panel on Manpower

Public Officers attending : Mr Michael WONG
Deputy Secretary for Security

Miss Winnie M W WONG
Assistant Secretary for Security

Mr Simon PEH
Assistant Director of Immigration

Miss Anita CHAN
Principal Assistant Secretary for Commerce, Industry
and Technology

Mrs DO PANG Wai-yee
Principal Assistant Secretary for Economic Development
and Labour (Labour)

Mr Philip CHOK
Deputy Secretary for Education and Manpower

Mr Gary AU
Acting Principal Assistant Secretary for Education
and Manpower

Clerk in attendance : Mrs Percy MA
Chief Assistant Secretary (2) 3

Staff in attendance : Ms Dora WAI
Senior Assistant Secretary (2) 4

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I. Election of Chairman

Mr LAU Kong-wah was elected Chairman of the joint meeting.

II. New Admission Scheme for Mainland Talents and Professionals
(Legislative Council Brief (Ref: SBCR 2/2091/03))

2. Deputy Secretary for Security (DS for S) briefed members on the salient features of the new Admission Scheme for Mainland Talents and Professionals (the new Scheme) which would replace the Admission of Talents Scheme (Talents Scheme) and the Admission of Mainland Professionals Scheme (Mainland Professional Scheme).

3. Ms LI Fung-ying pointed out that without any sectoral restriction or quota, the new Scheme might create negative impact on the employment and wage levels of the local workforce. Noting that applicants who did not have a good education background but possessed good technical qualifications might also be considered under the new Scheme in special circumstances, some local workers had expressed worry that the proposed arrangement might adversely affect the employment prospects of the local workforce. In addition, workers of the catering industry had expressed particular concern about the proposed arrangement, for example, unlike the Mainland, local tertiary institutions did not offer courses leading to professional qualifications for chefs in the catering field.

4. Ms LI Fung-ying asked about the monitoring mechanism to be put in place to prevent abuse of the new Scheme so as to address the concern of the local workforce. She also asked how the Administration could ensure that local workers with suitable skills and knowledge would be given priority in local employment.

5. DS for S said that applicants under the new Scheme should have a good education background, normally a first degree in the relevant field, but in special circumstances, good technical qualifications, proven professional abilities and/or relevant experience and achievements supported by documentary evidence might also be accepted. Their remuneration package should be broadly commensurate with the prevailing market level for professionals in Hong Kong. In assessing the level of remuneration proposed by a prospective employer in an application, ImmD would make reference to relevant statistical data compiled by the Census and Statistics Department. Such data included the average and median market level wages of similar posts in the respective sector.

6. DS for S further pointed out that the above criteria were in line with those applicable to foreign nationals and residents of Taiwan, and applicants of the existing Talents Scheme as well as the Mainland Professionals Scheme. The Mainland Professionals Scheme was only open to two sectors, namely information technology (IT)

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and financial services. Since the implementation of the Mainland Professionals Scheme in June 2001, the total number of Mainland professionals granted entry into Hong Kong for employment was only 200-odd. Their average monthly remuneration was approximately \$30,000 for those in the IT sector and approximately \$55,000 for the financial services sector. As far as the Talents Scheme was concerned, the total number of approved cases since its implementation in December 1999 was only some 200. These figures had demonstrated that there was no sign of abuse under these two schemes.

7. DS for S further said that in recent years, the number of foreign nationals and residents of Taiwan who had entered Hong Kong for employment under the general employment policy was in the range of 14 000 to 16 000 per annum. This group of professionals had neither created negative impact on local employment nor adverse effect on the wage levels of the local workforce. He believed that with proper and effective monitoring, the new Scheme would provide an impetus to local economic growth and would in turn bring about a positive impact on local employment.

8. Assistant Director of Immigration (AD of ImmD) said that in processing entry applications under the general employment policy, ImmD would conduct from time to time field inspections to examine the bona fide of the employing companies as well as the information provided in the applications. These checking procedures, which also applied to the Talents Scheme and the Mainland Professionals Scheme, had proved to be effective.

9. Mr LEE Cheuk-yan pointed out that local university graduates normally had to undergo on-the-job training before they could acquire professional qualifications. Instead of providing training for local employees, employers might choose to employ Mainland professionals who already possessed the relevant qualifications. He also pointed out that the actual amount of the median wage of a certain job post at the lower quartile of the wage distribution would be less than that at the upper quartile. As a result, local employers might employ those Mainland professionals with wage levels at the lower quartile. Mr LEE expressed concern that the new Scheme would affect the employment of local university graduates, and their training opportunities and as well as career development.

10. To ensure that only Mainland talents or professionals who possessed skills and experience not readily available locally would be admitted, Mr LEE Cheuk-yan suggested that applications under the new Scheme should be divided into two categories and handled separately. For applicants with good education background, their applications could be processed and approved by ImmD without the need to consult the Advisory Committee on the new Scheme. However, a report on the approved applications should be submitted to the Advisory Committee, and its feedback should be used as reference for handling future applications. For applicants without good education background but with sound technical qualifications and/or relevant professional abilities, ImmD should seek the advice of the Advisory Committee before approval was given.

11. Mr LEE Cheuk-yan also expressed dissatisfaction that the labour sector was not represented on the Selection Committee on the Talents Scheme. He suggested that the labour sector should be represented on the Advisory Committee on the new Scheme with a view to achieving a fine balance between bringing in qualified personnel and providing suitable safeguards for the local workforce.

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12. DS for S said that the Advisory Committee on the new Scheme would be chaired by the Financial Secretary (FS), and its members would be appointed by the Chief Executive in their personal capacity. The Advisory Committee would comprise official and non-official members from major sectors of the economy, who should have a good understanding of the local and the Mainland markets. Doubtful cases would be referred to the Advisory Committee for advice. The operation of the Advisory Committee would be decided by FS. DS for S agreed to convey the views of Mr LEE Cheuk-yan as set out in paragraphs 10 and 11 above to FS for his consideration.

13. Given that the new Scheme had been formulated in the context of the population policy, Mr Andrew WONG opined that it was more appropriate for the Chief Secretary for Administration (CS) to chair the proposed Advisory Committee as the work in respect of the formulation of the population policy had been steered by CS. He enquired whether it was a confirmed arrangement that FS would be the chairman of the Advisory Committee.

14. DS for S answered in the affirmative. In his view, it was a reasonable and appropriate arrangement for FS to chair the Advisory Committee on the new Scheme as FS was responsible for overseeing the policies relating to local trades and industries.

15. Mr LEUNG Yiu-chung said that according to his understanding, the Director of Immigration (the Director) might process entry applications without reference to any advisory committee. He queried how the Advisory Committee on the new Scheme could effectively alleviate public concern about possible abuse of the Scheme as well as its negative impact on employment opportunities and wage levels of local workers. He opined that to promote public confidence, there should be an effective monitoring mechanism to ensure that the eligibility criteria of the Scheme were fully met by all successful applicants.

16. DS for S pointed out that under the laws of Hong Kong, the power of granting a person entry into Hong Kong rested fully with the Director. However, he believed that in practice, the Director would consult the Advisory Committee on the new Scheme when considering doubtful cases. As members of the Advisory committee would be appointed from different sectors of the economy, they should be able to offer balanced expert advice on individual applications.

17. DS for S also pointed out that some local companies had a genuine need to recruit Mainland talents or professionals to help expand their businesses in the Mainland. He considered that unnecessarily restrictive requirements on the admission of such personnel might hinder the growth of local businesses, which would in turn undermine the economic development of Hong Kong. If the affected companies closed down their local business operations, Hong Kong might lose a large number of jobs that these companies were originally able to provide for the local workforce. It was worth-noting that another benefit of admitting talents or professionals was that the skills of the admitted personnel could be transferred to local workers, thereby upgrading the quality of the local workforce.

18. DS for S further pointed out that according to a manpower projection, there would be a manpower shortfall of over 100 000 workers at post-secondary and above level by

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2005. The Administration considered that to maintain its competitiveness, Hong Kong should position itself towards a high value-added and technology-based economy. To achieve this goal, Hong Kong would need a vast pool of qualified talents and professionals from other places as the local manpower supply could not keep pace with the evolving needs of the community. At a time when global competition for quality personnel was getting more intense, relaxing the admission of Mainland talents and professionals would help Hong Kong tap the vast manpower pool available in the Mainland.

19. DS for S added that time factor was very important in acquiring suitable and qualified personnel, as any delay in such acquisition might affect the business operations of the companies concerned. Hence, any mechanism which would undermine the flexibility and effectiveness of the new Scheme should be avoided.

20. Mr Tommy CHEUNG pointed out that although the prevailing wage of a chef in Guangzhou was lower than that for a similar chef in Hong Kong, an employer would have to pay more for the employment of the former taking into account the cost of accommodation and fringe benefits to be provided to a Mainland employees. Having regard to the adequate supply of local workers in the catering industry and the higher living standard in Hong Kong, Mr CHEUNG did not envisage that there would be an influx of workers from the Mainland. He considered that to attract foreign investments, the Government should put in place measures to facilitate local companies to bring in talents and professionals not available locally.

21. Mr Tommy CHEUNG said that under the existing schemes, the processing time for new applications for admission of overseas chefs took more than six months, and that for applications for replacement of chefs also took unduly long. He expressed concern whether additional staffing resources would be provided to ImmD for implementing the new Scheme. He also enquired whether ImmD would give a performance pledge on the processing time for applications under the new Scheme.

22. DS for S said that as the Talents Scheme and the Mainland Professionals Scheme would be abolished upon the implementation of the new Scheme, and in view of the tight manpower resources within the Government, ImmD would absorb any additional workload arising from the new Scheme from within its existing resources. He stressed that he was unable to make a pledge on the time required for processing an application under the new Scheme at this stage, as the processing time would depend on the total number of applications received. It was estimated that ImmD would be able to process about 1 000 to 1 100 applications, including applications from dependants, under the new Scheme every month during the first six to 12 months of implementation.

23. DS for S said that the level of staffing support for ImmD would be reviewed if the new Scheme had such an overwhelming response that the Department was unable to process the applications within a reasonable period of time, which subsequently resulted in impeding the economic growth of Hong Kong.

24. AD of Imm pointed out that ImmD might need to verify with the relevant Mainland authorities certain information concerning the education and professional background of Mainland applicants under the new Scheme. Hence, it was difficult to accurately assess

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the time required for processing an application under the Scheme. He stressed that all applications under existing admission schemes had been handled in a stringent manner, with the primary principle of protecting local employment strictly followed. Since many of the posts in the catering industry were of a non-professional nature, the vetting procedure for applications for these posts was therefore particularly stringent in order to prevent abuse. He informed members that a majority of those who had been admitted to work in western restaurants in Hong Kong had attained professional qualifications and were holding positions not lower than the rank of executive chef.

25. On the question of the long processing time for applications for replacement chefs, DS for S explained that each application had to be considered on its own merits. Although an overseas chef had been approved to enter HK for employment, the eligibility of his replacement would have to be assessed by ImmD before approval for admission was granted. This procedure would ensure that the new incumbent met the relevant eligibility criteria. DS for S said that ImmD would be happy to look into individual cases which took a long processing time if the parties concerned could provide the relevant information.

26. Noting that Mainland authorities had been consulted on the proposals relating to the new Scheme, Mr Ambrose LAU enquired about the details and outcome of the consultation. He also enquired whether the Administration had shared with Mainland authorities the problems encountered on the Mainland side in implementing the Talents Scheme and the Mainland Professionals Scheme, with a view to enabling that the new Scheme could better meet the needs of Hong Kong.

27. DS for S said that in accordance with the Basic Law and the relevant Mainland laws, each successful applicant under the new Scheme should separately submit an exit application to the Public Security Bureau in his locality. The Mainland authorities agreed to render full assistance in the granting of exit permits to successful applicants to enter Hong Kong for employment under the Scheme.

28. DS for S added that under the Talents Scheme and the Mainland Professionals Scheme, it took approximately three to four weeks for ImmD to vet entry applications and approximately 15 days for Mainland authorities to issue exit permits. The time for processing applications under these two schemes was considered to be reasonable. As there was no sign of abuse of the two schemes, DS for S did not see a need for a significant change to the existing mode of operation. The existing arrangements under the two schemes would be broadly followed in the new Scheme.

29. Mr Kenneth TING welcomed the new Scheme and enquired whether the conditions for admission of Mainland residents for employment would be the same as those for foreigners. He suggested that the processing time for applications should be shortened and the application procedures should be simplified as far as possible.

30. DS for S responded that the eligibility criteria for Mainland talents and professionals under the new Scheme would be generally in line with that for foreign nationals and residents of Taiwan under the general admission for employment policy. Details of the eligibility criteria were set out in paragraph 6(a) to (c) of the Administration's paper.

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31. Referring to paragraph 8(b) of the Administration's paper, Mr James TO enquired why the application of the same admission policy to Mainlanders and non-Mainlanders would derogate from Hong Kong's autonomy in dealing with non-Mainlanders.

32. DS for S explained that in accordance with the Basic Law, Mainland residents seeking to enter Hong Kong for whatever purpose must apply for exit approval from the Mainland authorities. It was an established practice that Hong Kong would consult Mainland authorities when formulating or revising its admission policy for Mainlanders as such policy was closely related to the Mainland's exit control policy. On the other hand, it was not necessary for the Hong Kong Government to consult Mainland authorities on changes to its general employment policy as Hong Kong had full autonomy in such policy which applied separately to overseas professionals. In view of this, the Administration considered it appropriate and necessary to maintain two separate admission schemes for Mainlanders and non-Mainlanders in order not to derogate Hong Kong's autonomy in dealing with the admission of non-Mainlanders.

33. Mr James TO said that non-Mainlanders admitted to Hong Kong under the general employment policy might bring in their parents, in addition to their spouses and unmarried dependent children. He asked why the Administration did not recommend allowing successful Mainland applicants under the new Scheme to bring with them their parents.

34. DS for S pointed out that employment policies in many overseas countries did not allow entrants to bring with them dependent parents. Nevertheless, their parents might visit them on visitor status. DS for S informed members that the Administration was reviewing the general policy on the admission of dependants, and was considering changing the existing policy to allow persons admitted to Hong Kong for employment and investment to bring in their immediate family only, i.e. spouses and unmarried dependent children. Dependent parents already admitted under the existing policy would not be affected by any policy change. The Administration would revert to the relevant Panel when the outcome of the review was available.

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35. Mr James TO considered that with the pre-condition that admitted talents or professionals might bring in their parents provided that they could support and accommodate their parents in Hong Kong at a reasonable standard, it was unlikely that these parents would have to rely on social benefits after their admission. He did not understand why parents of Mainland talents and professionals should not be allowed to reside in Hong Kong.

36. DS for S pointed out that admitted talents and professionals, including their dependant parents, would become permanent residents of Hong Kong after seven years of continuous residence in the territory. These parents, after becoming permanent residents, might continue to stay in Hong Kong and would be entitled to the same range of social benefits applicable to local citizens even if their children had left Hong Kong permanently. This might have financial implications on Hong Kong.

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37. Mr James TO opined that the situation cited in paragraph 36 above could be overcome by, for example, imposing a maximum period of stay, say, six years, on dependant parents of Mainland talents and professionals admitted under the new Scheme.

38. Referring to the proposed arrangements for intra-company transfer in paragraphs 18 and 20 of the Administration's paper, Ms LI Fung-ying enquired how companies with established operations in Hong Kong could sponsor the entry of their foreign employees in their overseas offices for intra-company transfer to Hong Kong. She also enquired whether the proposed intra-company transfer arrangements were applicable to Mainlanders working in Mainland companies which had business operations in Hong Kong. In addition, she asked about the timetable for conducting a review of the new Scheme and whether the public would be given an opportunity to express their views on the Scheme during the review.

39. DS for S said that the new Scheme would be reviewed one year after its implementation, the outcome of which would be reported to the respective Panels. He believed that the public would have an opportunity to give their views on the Scheme during the review.

40. DS for S further said that arrangements for intra-company transfer were already in place for employees who were foreign nationals or residents of Taiwan working in the overseas offices of companies with established operations in Hong Kong. In fact, out of the 14 000 to 16 000 foreign nationals or residents of Taiwan admitted to work in Hong Kong under the general employment policy in each of the past few years, one-fourth of them were admitted on the basis of intra-company transfer. The conditions for such transfer were detailed in paragraph 18(a) to (c) of the Administration's paper.

41. DS for S added that given the increasing economic integration between Hong Kong and the Mainland, the Administration considered it appropriate and necessary to relax the existing policy to allow Mainlanders to enter Hong Kong for intra-company transfer on a similar basis as foreign nationals and residents of Taiwan. Nowadays, many local firms and Hong Kong regional headquarters of multinational companies had established operations in the Mainland. These firms had an increasingly pressing need to post their employees in the Mainland to their Hong Kong offices for exposure or for assisting in operations relating to the interface between the Mainland and other markets.

42. AD of Imm said that the factors to be taken into account when approving an application for intra-company transfer included the following -

- (a) the transferee should be at managerial or professional level who had worked for the company for not less than one year;
- (b) the transferee should be paid market level remuneration; and
- (c) the number of intra-company transferees sponsored by a company at any one time should be reasonable when compared to its total number of employees and its business nature.

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43. In reply to Ms LI Fung-ying's further enquiry, DS for S said that applications for intra-company transfer would be considered favourably provided that there were justifiable reasons, irrespective of whether or not the company was a regional headquarter.

44. Mr James TO asked whether the intra-company transfer arrangements as presently proposed would give rise to a situation where Mainlanders who did not fulfil the eligibility criteria of the new Scheme could enter Hong Kong for employment by way of intra-company transfer.

45. DS for S pointed out that the criteria for intra-company transfer were different from those for the new Scheme. The main consideration in the former case was whether the applying firms had a genuine operational need to transfer their Mainland employees to work in their Hong Kong offices.

46. Mr James TO expressed concern how ImmD could ensure that Mainland employees admitted to work in Hong Kong on intra-company transfer would be paid market level remuneration. He cited two hypothetical cases of possible abuse of the proposed intra-company transfer arrangements. First, a Mainland employee with 20 years of working experience who entered Hong Kong on intra-company transfer to take up a post requiring only five years' working experience might be paid a wage at a level comparable to that for an employee with only five years' experience. Second, the actual take-home pay of a Mainland employee working in Hong Kong on intra-company transfer might only be half of his wage offered by his employer, on the ground the remaining half had been deducted for payment of maintenance to his family in the Mainland. Mr TO asked about the measures to be put in place to prevent the occurrence of such incidents.

47. AD of Imm said that in the first hypothetical case cited by Mr James TO, the company would need to provide justifications for employing an employee with 20 years' working experience to fill a post which only required five years' experience. As for the second case cited by Mr TO, ImmD might request the company to provide the relevant documentary proof on salary for examination by the Department.

48. AD of Imm added that under normal circumstances, a post involved in intra-company transfer should not be a newly created post, and there should be a specified period of posting under such transfer. Applications for cross-posting would also be accepted under warranted situations.

III. Any other business

49. There being no other business, the meeting ended at 5:50 pm.