

LegCo Panel on Manpower
Review of the policy on foreign domestic helpers

A. Information sought by Members at the special meeting on 12 March 2003

Imposition of a levy on employers of foreign domestic helpers (FDHs)

1. *To provide the Department of Justice's advice on whether section 14 of the Employees' Retraining Ordinance (ERO) gives such a power to the Administration to impose a levy on employers of foreign domestic helpers (FDHs) without the need to legislate.*

Section 14(3) of the Employees Retraining Ordinance (Cap 423) (ERO) provides that the Chief Executive in Council may, from time to time, approve a scheme under the terms of which a levy shall be payable by employers in accordance with the Ordinance. The Department of Justice advises that the wording of the provision makes it clear that the legislature, when passing the ERO in 1992, accepted that labour importation schemes, other than the General Labour Importation Scheme which was in existence when the ERO was enacted, would be approved by the Chief Executive in Council for the purposes of the Ordinance.

It was therefore in order from the legal point of view to introduce a new labour importation scheme for the purposes of the ERO. Subject to such a scheme being approved by the Executive Council under section 14(3), an employer granted permission under the terms of the scheme to employ an imported employee would be liable to pay the levy. No legislative amendment to the ERO is necessary to set up such a scheme under the ERO or to impose the levy.

It is noteworthy that before the enactment of ERO, the levy was introduced as a contractual fee charged by the Government in consideration of the grant of a quota to an employer for importing

workers. The introduction of the ERO was to make the levy statutory so that the levy collected would be channeled directly to the statutory fund specified for retraining. Without such legislation, the levy collected would go into General Revenue and its application for the intended purpose would be subject to normal appropriation procedures. This bears testimony to the policy intention which is clearly reflected in the ERO and the acceptance by the legislature that the Chief Executive in Council can, from time to time, designate any labour importation scheme and collect the levy from the scheme without the need to legislate.

2. *To provide the background and scope of the labour importation scheme (LIS) under section 14(3) of the Employees' Retraining Ordinance (ERO), and whether consideration had been given to imposing a levy on employers of FDHs when ERO was enacted; and if so, the decision of the Administration.*

The labour importation scheme under section 14(3) of the ERO is a scheme approved by the Chief Executive in Council from time to time. It therefore includes any labour importation scheme designated by the Chief Executive in Council if it sees fit. We do not have on record deliberation by the Administration on whether the Employees Retraining Levy should be imposed on employers of FDHs when the legislation was introduced in the Legislative Council in 1992.

3. *To explain whether employment of a FDH is subject to a quota system as specified under section 14(4) of the ERO, and whether an employer of a FDH should apply to the Director of Immigration for permission to employ a FDH as an imported employee in accordance with a quota allocated by or with the authority of the Secretary for Education and Manpower if importation of FDHs is designated as a LIS under ERO.*

The importation of FDHs has been designated by the Chief Executive

in Council as a labour importation scheme under ERO. Employers applying for FDHs would therefore be subject to a quota. When the Administration introduced the Employees Retraining Bill in 1992, the policy intention was to give a quota to each individual employer, i.e. the number of workers he can import. Thus, under the ERO, quota means the number of FDHs the employer would be permitted to employ after satisfying the eligibility criteria set out by the Administration.

In the General Labour Importation Scheme (General Scheme) and the Special Importation of Labour Scheme for the New Airport and Related Projects (ACP Scheme), an upper ceiling for the number of workers to be imported was set by the Administration as a matter of policy, i.e. whilst an employer could employ a permitted number of imported workers, the total number of workers to be imported into Hong Kong was fixed. Individual employers still had to be given a “quota” under ERO, which in practical terms means approval by the Administration on the number of workers they could import. No such ceiling has been set for the Supplementary Labour Scheme.

- 4. *In his reply to an oral question raised by Dr Hon Samuel WONG at the Council Sitting on 28 June 1995, the then Secretary for Education and Manpower said that “foreign domestic helpers come under a separate scheme which is different from the labour importation scheme. For this reason, our present approach is based on the policy that has been adopted for the past 20 years and that is, foreign domestic helpers are imported on the basis of the local demand, with no special charges levied or quota set for such employment.” To advise whether this is still the existing policy on FDHs; and if not, why and when the policy has been changed.***

The ERO provides that the Chief Executive in Council can, from time to time, approve a labour importation scheme under the terms of which an Employees Retraining Levy is payable by the employers. Before the review on FDH policy, the importation of FDH was not a

labour importation scheme approved by the Chief Executive in Council.

Nonetheless, there have recently been significant changes in the economic and social landscape that render a review on FDH policy necessary. We now have to face problems posed by the economic restructuring, structural and unprecedentedly high unemployment and protracted deflation. As Hong Kong gradually transforms into a knowledge-based and service economy, job opportunities for low-skilled workers have shrunk. Employment statistics show that the less educated, middle-aged workers are the hardest hit in the current economic downturn. Statistics from the General Household Survey conducted by the Census and Statistics Department shows that, as at November 2002 to January 2003, one-third (33.9%) of Hong Kong's workforce has an education attainment of secondary three or below. It is also clear that once these workers are displaced, they will find it increasingly difficult to seek new employment. As such, these hard-core unemployed will need more training programmes to help them re-enter the labour market. According to a manpower projection commissioned by the Government in 2000, there would be some 136 000 low-skilled workers with educational attainment of lower secondary and below looking for jobs in 2005. The need to train and retrain the local workforce to keep pace with Hong Kong's economic restructuring is therefore substantial.

Against this background, the time had come for a comprehensive review of the FDH policy. The review, conducted in the context of the formulation of population policy, concludes that a levy on employers of FDHs is reasonable because:

- (a) FDH employers are enjoying services offered by low-skilled imported workers rather than local employees. As a matter of principle, these employers should shoulder the obligation of contributing towards the training and retraining of the local workforce, in particular the lower-skilled people, and promotion of job opportunities for local employees;

- (b) since the enactment of the ERO in 1992, employers importing workers under the General Scheme, ACP Scheme and Supplementary Labour Scheme (SLS) have been paying the levy, which goes to the Employees Retraining Board (ERB). It is a well-established principle that employers hiring low-skilled imported workers, rather than local employees, should contribute towards the training and retraining of the local workforce;
- (c) in the face of Hong Kong's current economic downturn and economic restructuring, there is an obvious need to enhance the competitiveness of the local workforce. This is especially so given the persistently high unemployment rate, which now stands at 7.4%; and
- (d) when the ERO was enacted in 1992, the aim was to fund ERB's activities through the levy collected from employers. However, because of the substantial increase in training needs (the number of training places rose from about 15,000 in 1993/94 to some 106,000 in 2001/02), and the drastic fall in levy income to the ERB following the completion of the ACP Scheme, the Government had to inject a total of \$1.6 billion as capital grant to ERB by 1999. With the twin impact of a drop in levy income and the continued increasing demand for retraining places, ERB was no longer able to sustain its activities through its levy income and capital injection alone. Since 2000/01, an annual subvention of \$400 million has been provided by the Government to ERB. Given the increasing demand for training and retraining the local workforce as a result of high unemployment and economic restructuring, there is clearly a case for expanding the source of levy income to ERB.

B. Issues raised by legal advisor to the Panel

Imposition of a levy on employers of FDHs

1. *To provide the detailed terms and requirements of the 3 Importation of Labour Schemes (the General Labour Importation Scheme, the Special Labour Importation Scheme for the New Airport and Related Projects and the Supplementary Labour Scheme) and the documents relating to each of these particular schemes submitted for the normal approval of the then Governor in Council.*

and

3. *What were the respective dates of the submission and approval of these 3 labour importation schemes?*

The terms and requirements of the General Labour Importation Scheme, the Special Labour Importation Scheme for the New Airport and Related Projects and the Supplementary Labour Scheme are similar. Only employers with proven recruitment difficulties would be allowed to employ workers from outside Hong Kong. Under all three schemes, employers are required to enter into a standard employment contract with the imported workers for a duration of not more than 24 months. The imported workers are entitled to the same protection under the labour laws of Hong Kong and should be paid no less than the monthly wages specified under the respective schemes. In addition, employers are required to provide accommodation, free medical treatment and return passage to the imported workers. The imported workers must remain under the direct employment of the same employer for a specified job throughout the contract period. Under normal circumstances, change of employment is not permitted.

Details of the three schemes are set out in the Legislative Council briefs in Annex A. The then Governor in Council approved on 7 January 1992 the charging of a levy on employers as a contractual fee in consideration of the granting of quota under the General Scheme. The General Scheme became a labour importation scheme by virtue of s.33 of the ERO upon its coming into operation on 16 October 1992. The ACP Scheme was approved by the then Governor in Council on

12 January 1993 while the SLS was approved on 9 January 1996.

2. *Who or which government branch/bureau was responsible for the drawing up and the submission of these 3 labour importation schemes for the consideration and approval by the Chief Executive (CE) or Governor in Council?*

The then Education and Manpower Branch.

4. *Was the Labour Advisory Board consulted on the design of these 3 labour importation schemes?*

General Labour Importation Scheme

The Labour Advisory Board (LAB) was consulted on various occasions on the main issues of the Scheme, including importation of a limited number of skilled workers, allocation of quota, increase of ceiling, charging of levy and the setting up of a statutory fund for retraining.

Special Labour Importation Scheme for the New Airport and Related Project

The LAB was not consulted before the announcement of the Special Labour Importation Scheme for the New Airport and Related Project (ACP Scheme) as the ACP Scheme followed ground rules similar to those of the General Scheme.

Supplementary Labour Scheme

The LAB was consulted on the operation and implementation details of the SLS because it would be involved in vetting applications under SLS.

5. *To provide the documents showing the detailed terms and requirements of the importation scheme of FDHs which was submitted for the approval of CE in Council.*

The details of the Scheme as approved by the Chief Executive in Council on 25 February 2003 are at Annex B.

6. *Has the Labour Advisory Board been consulted with respect to the new labour importation of FDHs before CE in Council's decision was made?*

We did not consult the LAB before the Chief Executive in Council decided to designate the employment of FDHs as a labour importation scheme under the ERO.

The LAB is a non-statutory body comprising an equal number of employer and employee representatives to advise the Commissioner for Labour on labour matters. The Administration consulted the LAB on the General Scheme as the importation of labour was a concept new to many at that time. There was no consultation with the LAB in respect of the ACP Scheme as the ground rules were similar to those of the General Scheme. As for the SLS, the LAB was consulted as it would be involved in monitoring the Scheme and vetting applications.

We have not consulted the LAB on the importation scheme of FDHs since the practice of Hong Kong families hiring domestic helpers from abroad has been in existence for some 30 years. There is a well-trying and established mechanism for the admission of FDHs with no involvement of the LAB. The collection of levy from employers of imported workers for the training and retraining of local workers is also a well-established principle.

7. *To provide the ratio of the Employees Retraining Levy to the government's subvention into the Fund for past 3 years and the*

actual dollar amount of such levy and subvention.

The actual dollar amount and the ratio of the Employees Retraining Levy to the Government's subvention into the Employees Retraining Fund in the past three years are as follows:

	2000/01	2001/02	2002/03
Government subvention	-	\$400,000,000	\$395,900,000
Employees Retraining Levy	\$8,577,600 (Actual)	\$8,396,800 (Actual)	\$5,109,000 (Projected)
Ratio	-	1: 0.021	1: 0.013

Economic Development and Labour Bureau (Labour Branch)
April 2003

LEGISLATIVE COUNCIL BRIEFIMPORTATION OF LABOUR : GENERAL SCHEME 1992Introduction

With the advice of the Executive Council, the Government has decided that -

- (a) the general labour importation scheme (i.e. excluding the airport-related scheme) should continue in such a way that the total number of workers imported under the general schemes (including the 13,800 workers imported under the 1989 and 1990 schemes and remaining in Hong Kong) does not exceed 25,000 at any one time;
- (b) allowable wage levels set at median monthly wage less \$400 should be published in respect of different occupations, below which applications for imported workers will not be considered;
- (c) employers should be required to pay wages through autopay as a condition for importing workers in order to minimize abuses on unlawful deduction or underpayment of wages;
- (d) the maximum deduction from the monthly wage for the actual cost of accommodation should not exceed 10% of the allowable wage;
- (e) an employer should pay a lump sum in respect of each imported worker based on a rate of \$400 a month multiplied by the number of months covered in the contract up to a maximum of 24 months;
- (f) the revenue generated from the levy should be used for augmenting the provision of training or retraining for local workers;
- (g) the training or retraining for local workers should be focussed on those economic sectors in which manpower shortages are the most serious;
- (h) a training allowance should be paid to those local workers undergoing training or retraining who are genuinely in need of financial assistance;

- (i) pending the establishment of a statutory fund financed by the levy for augmenting the provision of training or retraining for local workers, a provisional training fund board should be established to advise on the priority of retraining programmes and on allocations from the fund;
- (j) employers found to be mistreating their imported employees should be prevented from taking advantage of future schemes to import labour;
- (k) the Government should continue to assist imported workers who have been mistreated by their employers to find alternative employment but that, where a worker cannot be placed within two months, he should be returned to his country of origin at the expense of his last employer; and
- (l) the Labour Advisory Board and the OMELCO Manpower Panel should be informed of the detailed arrangements for implementation of the general labour importation scheme prior to any public announcement.

BACKGROUND AND ARGUMENT

Background

General Schemes

2. So far the Administration has introduced three general (i.e. non-airport related) labour importation schemes as follows -

- (a) in May 1989, a scheme for the importation of up to 3,000 technicians, craftsmen and supervisors;
- (b) in May 1990, a continued special scheme for importing technicians, craftsmen and supervisors with a new quota of 2,700 workers; and
- (c) in May 1990, an annual scheme for importing experienced operatives, with the quota in the first year set at 10,000 workers, to be reviewed annually.

3. This memorandum does not cover the separate scheme for the importation of workers to facilitate the new airport and airport-related projects.

Review of 1989 and 1990 Schemes

4. Following the completion of the review of the 1989 and 1990 Importation Schemes, the Labour Advisory Board (LAB) and the OMELCO Manpower Panel were consulted on the further importation of labour. A copy of the relevant paper setting out the findings of the review and the proposal to continue the importation of technicians, craftsmen, supervisors and experienced operatives is at Appendix I. The subject was also covered by Legislative Council Members during the Debate on the Motion of Thanks in October 1991. There were divided views regarding whether there should be further importation of labour.

The Case for Further Labour Importation

5. The basic case for the further importation of labour was set out in paragraphs 19 to 21 of the review paper at Appendix I. In summary, the overall demand for labour has persistently outstripped supply in recent years as a result of a slow and declining growth rate of labour supply on the one hand and rapid growth accompanied by continuing structural changes in the economy on the other. Further labour importation will help to relieve bottlenecks in the labour market, thus providing the economy with greater scope for growth. In relieving shortages in bottleneck areas, labour importation can also help remove some of the wage pressures in the labour market, thereby contributing to restraining inflation. Sustained economic growth and reduced inflation will be in the interests of employees and employers alike.

6. Overall economic activity picked up continuously through 1991 with the result that the forecast GDP growth rate for 1991 as a whole has been revised upwards to 4%. The performance of the economy in 1992 is generally expected to be better. The labour market can therefore be expected to tighten again and relief will be needed by bringing in, on a selective basis, the appropriate types of workers from overseas.

Areas in Need of Imported Labour

7. According to the latest available statistics, vacancy figures for the month of September 1991 were generally higher than those for the month of June. In overall terms, vacancies in all sectors recorded a 3% increase. In respect of individual sectors, the numbers of vacancies were slightly lower in the manufacturing sector and at building and construction sites, but higher in the wholesale/retail and import/export trades, restaurants and hotels. In the transport, storage and communication sector, the increase in vacancies was concentrated in communications. In the finance

and business services sector, an increase in vacancies occurred in banks and in various business services, while vacancies in insurance and real estate declined. In community, social and personal services, vacancies rose except for welfare institutions and entertainment services. The relevant figures are shown in Appendix II.

8. Analyzed by vacancy numbers and the vacancy rate (i.e. the ratio of vacancies to the sum of employment and vacancies) in September 1991, the vacancy situation was tightest in the clothing and machine shop industries within the manufacturing sector. In the trading and services sectors, the vacancy rate was highest in hotels, communications, insurance, business services, automobile repairing, medical and health services, welfare institutions, and entertainment services. On the other hand, the number of vacancies was largest in the wholesale/retail and import/export trades.

9. An analysis of the vacancies in September 1991 by broad occupation categories for certain major economic sectors is given in Appendix III. The vacancy rate was generally higher for jobs at the clerical, secretarial and sales level. There were, however, some variations amongst sectors. In the manufacturing sector, the vacancy rate for operatives was lifted mainly by vacancies in the clothing industry. In the wholesale/retail and import/export trades, as well as banking, finance and insurance, the vacancy rate was also relatively high at the supervisory level. In hotel and catering services, the vacancy rate was higher at the technician, craftsman and operative levels than at the supervisory level.

IMPLEMENTATION ARRANGEMENTS

Level of Importation under a New Scheme

10. To date, there are about 13,800 workers imported under the existing general schemes, of whom about 800 (imported under the 1989 scheme) will have left upon completion of their contracts by January 1992. In the near term, we consider that it would be right to aim at maintaining the total number of imported workers at a relatively steady level. This would enable the labour importation schemes to be operated on a continuous basis with applications being invited and considered from time to time in the light of projected departures. It would avoid large-scale periodic fluctuation in the total labour supply.

11. Having regard to the levels set under the previous labour importation schemes, the unemployment and under-employment rates, the number of reported vacancies, the projected rate of economic growth and other relevant factors, it has been decided that the total number of imported workers (excluding those for the new airport and related projects)

should be set at an indicative level of a total of 25,000. We have also decided to apply more flexibility by not setting any fixed quotas for individual sectors or occupational levels, but to take into account the prevailing market situations at the time of granting approval.

Allowable Wage

12. In the 1989 scheme, employers were required to pay the going market wage for the importation of technicians, craftsmen and supervisors. However, this caused delay to the application process because of arguments between employers and the authorities as to what constituted the going market wage. In the 1990 schemes for technicians etc. and experienced operatives, we published a list of allowable wage levels based on the median wage in respect of each occupation/job title for employers' reference.

13. There have been suggestions that the median wage has given rise to an anomaly whereby an imported worker may be paid a higher wage than an in-service local worker, and that a minimum wage or a wage at the lower quartile should be paid instead. Consideration has been given to this suggestion. However, the Commissioner for Census and Statistics has advised that, in most situations, lower quartile wage levels are likely to be more volatile than the median values. Moreover, the difference between the median wage and the lower quartile can exhibit wide variations depending on the wage distributions associated with individual job categories (the more homogeneous the wages, the smaller the difference in question; and vice versa). Such wide variations will be likely to give rise to confusion and complications.

14. On balance, we feel that the introduction of the concept of lower quartile wages may create a lot of confusion and generate arguments. We have therefore decided to continue to adopt median wages as the basis for setting allowable wage levels below which applications will not be considered. Taking into account the proposed levy, the allowable monthly wage will be set at \$400 below the median.

Levy for Importing Workers

15. As stated in paragraph 25 of the review paper at Appendix I, there has been general recognition of the need to provide training or retraining to assist local workers who are vulnerable in the economic restructuring process to change their employment. In the longer term, there is merit in training local workers to fill vacancies which cannot now be filled locally and for which imported workers are

brought in. While the Government already provides training and retraining facilities through the Vocational Training Council (VTC) and the Clothing Industry and Construction Industry Training Authorities (the two CITAS), there is scope for augmenting these facilities if additional resources are available. We consider that it would be reasonable to require employers who benefit from labour importation to contribute a small amount to the training or retraining of local workers to the long term benefit of the economy as a whole.

16. We have therefore decided to require employers to pay a levy as a payment made in respect of the allocation of a quota under the labour importation scheme. Agreement by the employer to pay the levy would be made a pre-requirement of that allocation. The proceeds will be used to augment the provision of training or retraining for local workers. Such provision will be targetted at sectors and occupations with proven manpower shortages and will be aimed at alleviating such shortages for the benefit of local employers. The procedure will be simple and the administrative cost and need for enforcement will be kept to a minimum. We have decided that a flat rate of \$400 per month per worker multiplied by the number of months of the contract (i.e. up to a maximum of 24 months) should be paid by the employer as a condition for quota allocation. If any worker fails to arrive or a worker resigns without completing his contract, the employer will be allowed to arrange for a replacement.

Assistance to Imported Workers

17. At present, when a case arises of an imported worker being mistreated by his employer, the Administration renders assistance by extending his visa and trying to place him with a new employer. This is done to protect the interests of imported workers and to encourage them to report on malpractices by employers and to act as witnesses in prosecutions. So far, the Labour Department has successfully placed nine workers since it started to receive requests from exploited workers for assistance. Nine other cases are under active processing. There have, however, been problems: employers are generally reluctant to take on such workers and there is no person responsible for providing accommodation to the worker during the interim period. There is also the question of maintenance if the worker has difficulty living on his own savings. To ask the former employer to be responsible will not be enforceable. Thus, the present practice is that if placement is not successful after two months, the imported worker concerned will have to return to his country of origin. This may seem harsh but to extend his stay indefinitely will give rise to both immigration enforcement problems and individual hardship. It would also be difficult for the Government to accept responsibility for placing such workers and providing them with interim accommodation both on practical and cost grounds and because the Government is not obliged to place unemployed local workers in jobs although assistance is provided by the Labour Department.

18. Under the new scheme, placement of mistreated workers should in theory be easier to arrange. As a condition of approval of quotas, it will be made clear to employers that breach of any conditions of the contract (e.g. autopay) would render them liable to withdrawal of all or part of the quotas allocated to them and to being debarred from participation in future schemes. Any quota thus withdrawn could then be reallocated to other applicants and a worker could be placed together with the relevant quota. However, it has to be recognised that such placement cannot be done against the will of the worker or the receiving employer, and that there could still be cases where a worker cannot be placed within two months. We consider that, in such cases, the worker concerned should be returned to his country of origin at the expense of his last employer.

19. It should also be recognised that, while we can debar any employer who has engaged in malpractices from participating in the labour importation scheme in future, the sanction of quota withdrawal cannot be applied retrospectively, as it were, to employers who have already imported workers under the 1989 and 1990 schemes.

Enforcement against Offending Employers

20. It is envisaged that enforcement under the new scheme will be more effective, based on clearer conditions of importation stipulated as part of quota allocation and written into the contract where appropriate. For example, autopay will be made a condition of the contract. The breach of this condition may result in withdrawal of the quota from the offending employer.

21. Employers who have been found to have breached the conditions of importation will not be allowed to participate in future schemes. The Immigration Department will keep a record of such employers.

22. An Employment (Amendment) Bill which seeks to increase the penalty for unlawful deduction of wages and underpayment of wages tenfold (i.e. to \$100,000 and \$200,000 respectively) plus imprisonment for one year is under preparation. We intend to introduce the Bill into the Legislative Council in February.

Procedural arrangements

23. The new conditions relating to the levy, payment through autopay and withdrawal of quota etc. will be incorporated into the existing procedures and publicised in the information pamphlet to be distributed to members of the public. As regards old conditions such as allowable deduction for accommodation of no more than 10% of the monthly wage or the actual cost, whichever is the less, they will also be made clear in the relevant documents. The skilled labour allowed to

be imported under the general scheme commencing 1992 will comprise technicians, supervisors, craftsmen and experienced operatives. Employers will submit applications with reference to the published list of occupations/job titles and allowable monthly wages below which applications will not be considered. It will be spelt out that the list of job titles is not necessarily exhaustive and that employers may apply for the importation of workers in job categories not specifically shown on the list. All applications would be considered on their merits, having regard to evidence of shortage.

24. To safeguard the interests of local workers, all applicants will have to register their vacancies with the Local Employment Service of the Labour Department which will ensure that suitable local workers will have the opportunity to apply and possibly fill such vacancies with reasonable wages, i.e. no lower than median wages which represent the minimum outlay of employers of imported workers.

Implementation Timetable

25. The implementation timetable for the general scheme for importation of labour will be as follows -

<u>Procedure</u>	<u>Timetable</u>
a) Invitation of Preliminary Applications	20 January - 28 February 1992 (6 weeks)
b) Vetting of Applications	2 March - 5 April 1992 (5 weeks)
c) Allocation of Quota	6 April - 24 April 1992 (3 weeks)
d) Notification to Employers	By 30 April 1992

RETRAINING

26. On 5 December 1991, we issued a paper to the OMELCO Manpower Panel outlining existing retraining opportunities which are already available at the Vocational Training Council (VTC) and the Construction and Clothing Industry Training Authorities (the two CITAs). Although the VTC does not put on any programme specifically for local workers interested in retraining, it provides some 30,000 training places (short full-time and part-time) in 1991/92, some of which without entry qualifications. These are considered suitable for equipping in-service workers to upgrade their skills within their own trade or to acquire new skills for moving into a new trade. The Construction Industry Training

Authority offers over 1,000 training places in 1991/92 which provide retraining opportunities both for upgrading skills as well as attracting people to join the industry. The Clothing Industry Training Authority also offers part-time and short full-time courses with about 6,000 places a year to update and upgrade the skills of in-service workers.

27. Of the areas of shortage outlined in paragraphs 7 to 9 above, we estimate that at least half are covered by existing training and retraining courses operated by the VTC and the two CITAs. Some expansion of the existing courses will probably be required. The remaining areas may require the organisation of new courses. The VTC and the two CITAs are prepared to do so if resources are available. Other bodies (e.g. industry organisations) may also be invited to organise relevant courses or assist in their provision, perhaps in cooperation with the VTC.

28. The Local Employment Service (LES) of the Labour Department will provide necessary advisory, assessment and counselling services in order to identify workers interested in retraining and to refer them to the VTC and the two CITAs. Priority will be accorded to workers in the manufacturing sectors who are more vulnerable under the restructuring of the economy. Applicants accepted for retraining will be informed of the details of the training courses including, where applicable, their eligibility for a training allowance.

29. An allowance should be paid to those trainees considered to be genuinely in need of financial assistance, subject to availability of funds collected under the levy system. The eligibility criteria will need to be worked out carefully (e.g. those who have been in paid employment in the same industry for 3 years or more; allowance payable should have regard to attendance record). The rate of the allowance will need to be pitched at an appropriate level so as to avoid the allowance being regarded as unemployment benefits, but at the same time to be adequate for making retraining a viable option to the worker concerned. One possibility is to pitch the allowance at about \$2,800 per month, which is one half of the average monthly wage of a manufacturing worker at the operative level. The precise level of the allowance should be determined at a later stage, following further consultation upon formation of a provisional retraining fund board. This fund board will be tripartite in composition (i.e. comprising representatives of employers, employees and the Government) and will advise the Secretary for Education and Manpower on the priority of retraining programmes and on allocations from the Fund, pending the setting up of a statutory fund board.

30. The LES will continue to render employment assistance to any worker who has received retraining with a view to obtaining relevant placement.

31. It is tentatively estimated that the annual proceeds of the levy would be sufficient to retrain some 6,000 workers a year. More accurate estimates would need to be worked out in consultation with the relevant bodies.

Statutory Fund

32. It will be necessary to set up a statutory fund (to be managed on a tripartite basis) to demonstrate that the proceeds of the proposed levy will be or have been used for the intended purpose of augmenting the provision of training and retraining for the local workforce. We aim to introduce the necessary legislation for the retraining fund by mid-1992, if possible.

FINANCIAL AND STAFFING IMPLICATIONS

33. The continued importation of labour up to a ceiling of 25,000 workers will give rise to an increase in workload for the Immigration Department and Labour Department. This will be met by redeployment of existing resources and the creation of about 19 posts at a staff cost of \$6.2 million a year.

34. Assuming that an average of 12,500 workers will be imported in 1992 on 24-month contracts, the total levy (non-airport related) collected in 1992 will amount to \$120 million. If another 12,500 workers are imported in 1993 after the workers imported under the 1990 schemes (for which no levy was payable) complete their contracts, another \$120 million will be raised from the levy.

ECONOMIC IMPLICATIONS

35. These are set out in paragraphs 5 and 6 above.

PUBLICITY

36. An announcement on implementing a general scheme for 1992 will be made. Further materials such as the information pamphlet for importing workers and sample contracts will be distributed nearer the date of invitation of applications commencing 20 January 1992. A press release will be issued prior to invitation.

9 January 1992
Education and Manpower Branch

IMPORTATION OF LABOURINTRODUCTION

This paper sets out some basic background information relating to -

- (a) the implementation of the non-airport related labour importation schemes approved in 1989 and 1990; and
- (b) the proposal to increase the selective importation of labour.

BACKGROUND

2. So far the Administration has introduced four labour importation schemes, as follows-

- (a) in May 1989, a scheme for the importation of up to 3,000 technicians, craftsmen and supervisors;
- (b) in May 1990-
 - (i) a continued special scheme for importing technicians, craftsmen and supervisors with a new quota of 2,700 workers;
 - (ii) an annual scheme for importing experienced operatives, with the quota in the first year set at 10,000 workers, to be reviewed annually; and
 - (iii) a separate scheme for the importation initially of 2,000 construction workers to facilitate the new airport and airport-related projects.

IMPLEMENTATION OF THE 1989 and 1990 SCHEMESQuota Utilisation

3. A total of 2,718 jobs was allocated under the 1989 scheme, of which 2,004 were eventually taken up (Annex A). The total quota under the two non-airport related schemes approved in 1990 was 12,700, i.e. 2,700 for technicians, craftsmen and supervisors and 10,000 for experienced operatives. The quota was oversubscribed by a ratio of 4.53:1 (Annex B). All 12,700 jobs were allocated. By 28 October 1991, 12,138 visa applications had been approved and 11,855 workers, including 11,416 from China, had arrived in Hong Kong (Annex C).

4. The quota take-up rate upon granting of approval was generally satisfactory.

Admission procedures

5. The present procedures involve a two-stage application process. First, employers are invited to apply for quota. Secondly, those employers who are allocated quotas can recruit workers and arrange for the workers to apply for visas. Under the 1990 schemes, there was little difficulty with quota application and allocation. The publication of median wages provided a ready benchmark as to what constituted acceptable wage levels, thus eliminating a source of delay in processing applications. The publication of a list of industries ranked in order of priority on the basis of vacancy rates gave a clear indication as to the likely pattern of quota allocation. Problems emerged, however, after quota was allocated. Most employers recruited Chinese workers through labour service agencies in China. Many employers encountered difficulties in finding suitable workers. After the employment contract was concluded, the workers had to apply to the relevant Chinese authorities for permission to leave the country and for issue of passports. This process was time-consuming. The workers could only apply to the Immigration Department for visas when action on the Chinese side had been completed.

6. Experience in the past two years has shown that the procedures have worked reasonably well, but that more time is required for employers to recruit and for workers to obtain the necessary approval to come to Hong Kong.

Effect on Businesses

7. To assess the effect of labour importation on the businesses involved, a survey has been carried out on a sample of companies which had imported workers under the 1989 scheme [1]. The survey shows that 95% of the companies consider it worthwhile to employ imported workers. The effect of imported labour on the level of production, production cost and productivity is perceived by them to be as follows -

[1] In the survey, 119 companies, out of a total of 290 which have imported workers under the 1989 scheme, were interviewed. It is too early to survey the companies under the 1990 schemes since most of the workers only arrive recently.

<u>Perceived effect on</u>	<u>Increase</u>	<u>Percentage of companies</u>		
		<u>No change</u>	<u>Decrease</u>	<u>Don't know</u>
Level of production	77	20	3	-
Production cost	15	80	4	-
Productivity	73	23	1	3

Thus, imported workers seem to have helped remove labour shortages in bottleneck areas resulting in an increase in output and productivity. There has not been much change in costs because employers are required to pay not less than local median wages.

8. There have been no serious problems with adaptation by imported workers. Most companies commented that the imported workers were already knowledgeable about the work process. Labour relations have generally been good, both as between management and imported workers and as between imported and local workers.

Abuses and Irregularities

9. On the immigration control front, there have been 70 cases (up to 28 October 1991) involving problems such as breaches of conditions of stay, workers going underground and provision of false information by the employer. Immigration Department has taken appropriate action to deal with these problems: warning letters were sent to the employers who have supplied false information and one (unsuccessful) prosecution was initiated [2]. Of the 58 imported workers found to have overstayed, 6 were repatriated and action to locate the remaining 52 is continuing. The Department has also refused 11 visa applications where impersonation was suspected.

10. On the labour side, there have been 161 substantiated cases of irregularities (up to 14 October 1991) affecting 1,427 workers who entered Hong Kong under the 1989 and 1990 labour importation schemes. These cases were discovered during inspections by the Labour Department which covered 60% of imported workers. The irregularities include unlawful deduction of wages, sub-standard accommodation and failure to provide statutory holidays: detailed statistics are at Annex D. After appropriate advice and warning, most of these irregularities have been rectified.

[2] One employer was prosecuted for causing a false representation to be made in a document (employment contract) furnished to an immigration officer. The Court, however, ruled in favour of the defendant on the ground that the production of an employment contract was not an express requirement for making an employment visa application. Upon legal advice, the Immigration Department subsequently amended the pamphlet on how to import labour, making the production of a standard contract a pre-requisite for visa application under the Importation of Labour Scheme.

11. As at 14 October 1991, there had been five convictions against employers for late payment of wages and failure to provide statutory holidays. Prosecution action had been taken against four other employers for underpayment of wages and in relation to statutory holidays.

12. In addition, a number of abuses relating to unlawful deductions of wages have been reported, sometimes through the media. These include reports that imported workers have been asked to -

- (a) sign blank employment contracts (so that they are not informed of the median wage and the job title);
- (b) sign other private agreements with the employer for a lower wage;
- (c) sign blank wage receipts before arriving in Hong Kong; or
- (d) sign two different receipts after each wage payment.

For instance, a welder from China alleged that he was asked to sign a blank employment contract and 48 blank wage receipts before arriving in Hong Kong. Imported workers were reluctant to relay information to the Labour Department officers during investigation of complaints. They were not willing to give evidence against their employers. Under such circumstances the allegations cannot be substantiated.

13. Under the 1989 and 1990 schemes, there is a requirement that in the event of redundancies, imported workers should be retrenched first. The Labour Department has received 11 complaints alleging that employers have replaced local workers with imported workers. In investigating these complaints, the Department has found it difficult to prove beyond doubt that this requirement has been breached.

14. Nevertheless, the Labour Department has stepped up its efforts in enforcing the requirements of the labour importation schemes and in investigating reports of abuse. A second team of six Labour Inspectors has been set up since 13 September 1991 for this purpose. To tackle the problem of unlawful deduction of wages, the Department has advised employers that wages should henceforth be paid into the workers' bank accounts.

FURTHER SELECTIVE IMPORTATION

Economic and Labour Market Conditions

15. The performance of the economy continued to improve in the first half of 1991, following the pick-up in the latter part of last year. In the light of this improvement and in anticipation of a continued stable growth in the second half, the forecast GDP growth rate for 1991 as a whole has been revised upwards to 4% from the previous forecast of 3.5%. The corresponding growth rate in 1990 was only 2.8%. Although an official GDP forecast for 1992 is not yet available, the performance of the economy next year is generally expected to be even better than this year. (The Administration is assuming 5% growth for planning purposes.)

16. The labour market eased somewhat in the first half of 1991. It appeared to have tightened again in the third quarter as the economy continued to revive. In the third quarter, the unemployment rate was 2% and the underemployment rate was 1.5%, both significantly higher than the levels recorded in 1989 and 1990 but lower than the peak figures recorded in the second quarter of 1991. Despite some overall easing in the labour market situation, vacancies are still high in absolute terms (Annex E).

17. A more detailed analysis shows that manpower shortages still exist in certain bottleneck areas, notably jobs requiring a higher level of skill. As Annex F shows, the demand for white-collar workers is generally stronger than that for blue collar workers. The shift in employment from manufacturing to the service sectors has continued.

18. The easing of the labour market situation in recent months was partly due to an increase in the local labour supply, brought about by the reduced net outflow of Hong Kong people and the arrival of foreign workers under the 1990 labour importation schemes. The size of the labour force increased by 2% in the second quarter of 1991 over a year earlier to 2.82 million. Notwithstanding the higher unemployment rate, total employment increased by 1.2% over the same period to 2.76 million.

The case for further labour importation

19. Over the past five years, against a rapidly growing economy, the growth rate of labour supply has been slow and declining. As a result, the overall demand for labour has persistently outstripped supply. Moreover, the shortages have been exacerbated by the continuing structural changes in the economy. There is a strong sectoral demand for labour brought about by the economy becoming increasingly service-oriented. In addition, local manufacturers have to deploy their staff to supervise an outward processing workforce in South China which is of about the same size as Hong Kong's own total labour force.

20. The primary justification for further labour importation is that it will help to relieve bottlenecks in the labour market where significant shortages exist, thus providing the economy with greater scope for growth. Moreover, it will provide an additional source of labour supply to complement new investment. A further justification is that, in relieving shortages in the bottleneck areas, labour importation can help to remove some of the wage pressures in the labour market, thereby contributing to restraining inflation.

21. The case for further labour importation should not rest on current labour market conditions alone, but should also be based on an assessment of the likely performance of the economy in the near future, bearing in mind that workers under any new schemes will not arrive until several months after the commencement of applications of the schemes. As overall economic activity continues to pick up, the labour market can be expected to tighten again and relief will be needed. In anticipation of this development, it is necessary to increase the labour supply by bringing in the appropriate types of foreign workers. The Administration's approach should remain selective, by targetting areas where the skills and capabilities of the workers concerned are known to be in shortage in Hong Kong. It is not the intention to seek massive indiscriminate labour importation.

The Pattern of Vacancies

22. Although the labour market has eased generally between December 1989 (which is the reference point for the 1990 schemes) and June 1991 in overall terms, vacancies are still substantial (Note 1 of Annex G). Of the 63,000 vacancies in June 1991 in the major sectors at least 14,000 were at the supervisory, technician and craftsman levels (Note 2 of Annex G). The vacancy situation at different levels of skill amongst individual industries and services showed a varied pattern. In respect of the supervisory level, both the total number of vacancies and the overall vacancy rate recorded marked increases in June 1991 over December 1989. Sectors showing more significant increases are mainly concentrated in services, particularly the wholesale/retail and import/export trades, banking and finance, and hotels. For the technician/craftsman and operative levels, notwithstanding declines in overall vacancies, the vacancy rates in a number of industries and services continued to stay at a level higher than the overall average. These include machine shops, manufacture of clothing, hotels, manufacture of furniture, and automobile repairing. As regards the clerical/secretarial/sales level, the vacancy situation was still tight in the insurance, transport services and hotel sectors.

Level of Importation under a New Scheme

23. In considering the level at which a further labour importation scheme should be pitched, it will be necessary to take account of levels set under the previous labour importation schemes, the unemployment and under-employment rates, the number of reported vacancies, the projected rate of economic growth and other relevant factors. It should also be borne in mind that, under the existing schemes, imported workers are allowed to be brought in for up to two years. Thus, nearly all the 2,004 workers imported under the 1989 scheme will have left the territory when their two-year contracts expire by early 1992. Those imported under the 1990 non-airport-related schemes (maximum 12,700) will remain throughout 1992 and then progressively depart; they will have all left towards the end of 1993.

Approval Criteria

24. In order to ensure that workers are only imported to relieve proven shortages, applications should be considered in an order of priority that has regard to recent vacancy rates, economic indicators and projection on market trends (e.g. current situation in the labour market, level of skills of workers under application and availability of such skills in Hong Kong etc.).

RETRAINING FOR LOCAL WORKERS

25. One point which has been highlighted by most of the LegCo Members who spoke on the labour importation issue during the Debate on the Motion of Thanks on 30 and 31 October, including both those in support of and those against further labour importation, is the need to provide training or retraining to assist local workers who are vulnerable in the economic restructuring process to change their employment. Such facilities are already provided by the Vocational Training Council (VTC) but may need to be beefed up. More active guidance and assistance may also need to be given to local workers. The Administration is considering setting up a special fund for such retraining, financed by a reasonable levy to be paid by those employers given permission to import workers under any new importation schemes.

CONTROL MEASURES

26. Following the reports on unlawful deduction and underpayment of wages by unscrupulous employers, the Labour Department has stepped up policing action and advised employers to pay wages into imported workers' bank accounts through autopay. The Labour Department has also launched a major exercise in informing individual workers of the wages

to which they are entitled under their contracts and has increased random inspections of the payment of wages. At the time of application for visa extension upon completion of one year's service, the Director of Immigration will require employers' certification of wages paid as stipulated in the contract.

27. All future contracts of employment will contain specific clauses requiring crediting of wages to individual workers' bank accounts. If it is subsequently proven that there is breach of the contract conditions, necessary action such as prosecution or withdrawal of quota may be taken. Any employers who are found to have underpaid imported workers based on evidence through vetting of bank accounts will be subject to prosecution. The Administration proposes that with effect from a certain date, employers will have to comply with a new condition of crediting all wages to the bank accounts of individual imported workers through autopay and to authorize the bank to release information to the Labour Department. Failure to comply may result in refusal of granting approval for further importation of labour in future. In case of proven abuses and malpractices by unscrupulous employers, most if not all of the quotas may be withdrawn. The imported worker concerned may change employment with the assistance of the Labour Department and the approval of the Director of Immigration. Concurrently, legislative amendment would be introduced as soon as practicable to increase substantially the penalties against unlawful deduction/underpayment of wages.

Education and Manpower Branch
7 November 1991.

備忘錄附件一覽表

List of Annexes to Memorandum

輸入外地勞工 IMPORTATION OF LABOUR

- Annex A - 1989 輸入外地勞工計劃 - 配額分配/使用
1989 Labour Importation Scheme - Quota
Utilisation
- Annex B - 1990 輸入外地勞工計劃 - 配額分配
1990 Labour Importation Scheme - Quota
Allocation
- Annex C - 1990 輸入外地勞工計劃 - 配額使用
1990 Labour Importation Scheme - Quota
Utilisation
- Annex D - 由勞工處處理的違例事項之簡略統計
Summary statistics on irregularities handled
by the Labour Department
- Annex E - 空缺人數
Vacancies
- Annex F - 以職業主要組別分類之失業及就業不足率
Unemployment and Underemployment rates by
broad occupation categories
- Annex G - 職位空缺情況的摘要
Notes on Job Vacancies

1989 Labour Importation Scheme

Quota Utilisation

一九八九輸入外地勞工計劃
配額使用

Industry 行業	Total quota allocated 配額	Visa applications received 申請	Visa applications approved 批准	Visa applications refused 拒絕	Visa applications withdrawn 撤回
Machine Shop 金屬製造業	552	310 (55.2)	304	3	3
Construction 建築業	991	810 (81.7)	795	7	3
Wholesale & Retail 零售及批發業	45	26 (55.5)	24	2	0
Electrical & Electronics 電機電子業	316	210 (66.5)	188	10	14
Printing 印刷業	79	52 (65.8)	47	5	0
Hotel, Catering & Tourism 酒店飲食及旅遊業	248	264 (106.5)	250	8	6
Jewellery 珠寶業	51	6 (11.3)	6	0	0
Automobiles 汽車業	235	151 (64.3)	148	2	1
Clothing 製衣業	58	55 (94.8)	53	1	1
Banking 銀行業	0	0 (N/A)	0	0	0
Textile 紡織業	15	11 (74.6)	11	0	0
Furniture 傢俬業	17	15 (88.2)	15	0	0
Plastics 塑膠業	37	33 (89.2)	32	0	1
Transport 貨運業	29	24 (82.3)	22	0	2
Shipbuilding 船舶修造業	3	3 (100.0)	3	0	0
Insurance 保險業	0	0 (N/A)	0	0	0
Footwear 製鞋業	2	0 (0.0)	0	0	0
Others 其他行業	44	34 (77.3)	28	0	6
Total 合計	2718	2004 (73.7)	1924	38	42

() denotes % of take up rate

() 表示接收配額的百分率

1990 Labour Importation Scheme
Quota Allocation

Annex B

一九九零輸入外地勞工計劃
配額分配

Industry 行業	No. of workers requested 要求的工作人數目	Total quota allocated 獲分配的配額
Machine Shop 金屬品製造業	3503	684
Construction 建築業	10638	2079
Wholesale & Retail 零售及批發業	3385	1222
Electrical & Electronics 電機及電子業	3238	578
Printing 印刷業	959	179
Hotel, Catering & Tourism 酒店、飲食及旅遊業	9881	2452
Jewellery 珠寶業	225	49
Automobile 汽車業	394	122
Clothing 製衣業	11544	2455
Banking 銀行業	16	1
Textile 紡織業	2050	476
Furniture 傢俬業	621	84
Plastics 塑膠業	1634	287
Transport 貨運業	884	260
Shipbuilding 船舶修造業	1005	168
Insurance 保險業	13	0
Footwear 製鞋業	60	13
Others 其他行業	3672	1128
Fishing 漁業	3836	465
Total 合計	57558	12700

1990 Labour Importation Scheme

Quota utilisation

(As at 28-Oct-91)

一九九零輸入外地勞工計劃

配額使用 (截至九一年十月二十八日)

Industry 行業	Total quota allocated 配額	Visa applications received 申請	Visa applications approved 批准	Visa applications refused 拒絕	Visa applications withdrawn 撤回
Machine Shop 金屬品製造業	684	672 (98.2)	663	5	4
Construction 建築業	2079	2103 (101.2)	1993	60	50
Wholesale & Retail 零沽批發及出入口業	1222	1299 (106.3)	1230	45	24
Electrical & Electronics 電機及電子業	576	610 (105.9)	566	5	39
Printing 印刷業	179	188 (105.0)	170	12	6
Hotel, Catering & Tourism 酒店飲食及旅遊業	2452	2463 (100.4)	2402	41	20
Jewellery 珠寶業	49	49 (100.0)	48	1	0
Automobile 汽車業	122	120 (98.4)	117	1	2
Clothing 製衣業	2455	2476 (100.9)	2406	31	39
Banking 銀行業	1	1 (100.0)	1	0	0
Textile 紡織業	476	473 (99.4)	436	32	5
Furniture 傢俬業	84	86 (104.8)	83	4	1
Plastics 塑膠業	287	282 (98.3)	275	6	1
Transport 貨運業	260	260 (100.0)	251	1	8
Shipbuilding 船舶修造業	168	162 (96.4)	159	0	3
Insurance 保險業	0	0 (N/A)	0	0	0
Footwear 製鞋業	13	13 (100.0)	13	0	0
Others 其他行業	1128	1174 (104.1)	1100	44	30
Fishing 漁業	465	237 (51.0)	225	1	11
Total 合計	12700	12670 (99.8)	12138	289	243

() denotes % of take up rate

() 表示接收配額的百分率

No. of imported workers arrived : 11855 (including 11416 workers from China).

輸入勞工到達人數 : 11855 (包括 11416 勞工由中國到達)

Summary Statistics of Irregularities
Handled by the Labour Department

經由勞工處處理的違例事項簡要統計

Annex D

	數目	1990	14.10.91	Remarks
(1) No. of employment visits 就業探訪		35	1406	(as at 30.9.91) (截至'91年9月30日)
(2) No. of accommodation visits 住宿探訪		NA	585	Including 898 campaign visits in September 91 包括'91年9月進行的898次藉計劃有關的探訪 (as at 30.9.91) (截至'91年9月30日)
(3) No. of complaints received 接獲投訴		5	56	
(4) No. of conciliation cases 調解個案		1	22	
(5) No. of trade disputes 勞資糾紛		-	2	1 case involves 38 imported workers concerning annual leave pay and return passage; 1 case involves 12 local workers concerning wages in lieu of notice, severance and displacement of local workers 一案個案與年假及回程旅費有關, 涉及38外工; 一 個案與代通知金、遣散及撤換本地工人有關, 涉及 12名本地工人
投訴違例事項的分類				
(6) Breakdown by irregular items				
(i) Annual leave 年假		-	1	
(ii) Annual leave pay 年假工資		-	8	
(iii) Statutory holiday 法定假日		5	8	
(iv) Holiday pay 假日工資		1	11	
(v) Rest day 休息日		2	10	
(vi) Sickness allowance 疾病津貼		-	1	
(vii) Wage deduction 扣除工資		25	199	
(viii) Wages in arrears 欠薪		-	45	
(ix) Wages in lieu of notice 代通知金		1	17	
(x) Employees compensation pay 僱員補償款項		2	1	
(xi) No valid insurance policy 無有效的保單		-	3	
(xii) Change of employer 更改僱主		2	6	
(xiii) Change of occupation 更改職業		-	13	
(xiv) Discrepancy in hours of work 不符工作時數		-	13	
(xv) Overtime pay 超時工作工資		3	24	
(xvi) Non-provision of free medical treatment 無提供免費醫療		2	7	
(xvii) Return passage 回程旅費		-	2	
(xviii) No accommodation provided 無提供住宿		-	4	
(xix) Accommodation over-charged 收取過高住宿費		-	2	
(xx) Other accommodation standards 其他住宿標準		3	133	事項包括沒有保存完整的紀錄, 遣散費, 年終酬金, 分晚假期工資及非法的調派
(xxi) Displacement of local worker 撤換本地工人		-	11	
(xxii) Miscellaneous 雜項		5	26	Items include incomplete record-keeping, severance payment, year end payment, maternity leave pay and illegal deployment
	總數			
	Total	51	545	
經證實的違例事件				
(7) Irregularities substantiated				
(a) No. of cases 個案數目		16	145	主要事項包括從工資扣除匯款給中國的機構, 違反 住宿標準, 沒有給予法定假日工資, 僱員補償款項 Major items are wage deductions for remittance to agencies in China, breach of accommodation standards, non-provision of statutory holiday and holiday pay, employees compensation pay
(b) No. of imported workers involved 涉及的外工數目		180	1247	
檢控行動				
(8) Prosecution action				
(a) No. of summons 發出傳票的數目		-	10	主要事項包括過期支付工資或支付不足工資及不給予假期 Major items are late payment or underpayment of wages & non-provision of statutory holiday
(b) No. of conviction 定罪的數目		-	5	2 cases are pending fresh hearing 二項個案等待聽審
發出的警告				
(9) Warnings issued				
(a) No. of verbal warnings 口頭警告數目		-	130	主要事項涉及違反關於住宿的規定標準, 沒有保 存完整的紀錄, 取消假日工資及扣除工資 Major items are breach of accommodation
(b) No. of written warnings 書面警告數目		14	4	standards, incomplete record-keeping, annual
(c) No. of imported workers involved 涉及的外工數目		139	1116	leave pay and wage deductions

以主要組別分類之空缺人數

Vacancies by major sectors

(Increase/decrease from a year earlier)

(比較前一年增加/減少)

	製造業 Manufacturing (%)	零售批發及 出入口業 Wholesale, retail and import/ export trades (%)	酒樓及酒店業 Restaurants and hotels (%)	運輸、貨倉及 通訊業 Transport, storage and communication (%)	金融、保險、地產 及服務行業 Finance, insurance, real estate and business services (%)
1990. Mar三月	-12.9	-4.4	-16.0	-4.5	-6.0
Jun六月	-13.9	25.4	6.2	-24.0	6.0
Sep九月	-17.7	8.7	-7.0	-21.8	-15.7
Dec十二月	-19.9	2.3	2.1	-12.7	-15.6
1991. Mar三月	-17.0	-5.9	-1.3	-22.0	-16.3
Jun六月	-32.5	-9.7	-9.9	7.3	-8.4

Number of vacancies as in 1991年6月

截至 June 1991 25 249

18 000

6 860

3 561

8 726

以行業分類之僱員及空缺人數—1991年6月
 Employment and Vacancy by Industry - June 1991

Annex E
 (Cont'd)

組別/行業 Sector/Industry	僱員 Employment	空缺人數 Number of vacancies	空缺率(%) Vacancy Rate (%)
(A) <u>Manufacturing</u> 製造業			
(1) Clothing 製衣業	219 116	11 854	5.1
(2) Textile 紡織業	57 360	1 204	2.1
(3) Machine shop 金屬製造業	113 734	4 528	3.8
(4) Printing 印刷業	49 398	1 249	2.5
(5) Plastics 塑膠業	45 160	1 179	2.5
(6) Electrical 電機業	19 415	401	2.0
(7) Electronics 電子業	77 618	2 055	2.6
(8) Others 其他行業	99 284	2 779	2.7
Sub-total 小計	681 085	25 249	3.6
(B) <u>Construction sites</u> 建築地盤業	63 762	942	1.5
(C) <u>Wholesale, retail and import/export trades, restaurants and hotels</u> 零售批發及出入口業, 酒樓及酒店業			
(1) Wholesale, retail and import/export trade 零售批發及出入口業	649 723	18 000	2.7
(2) Hotel 酒店業	33 241	2 132	6.0
(3) Catering 飲食業	187 059	4 728	2.5
(4) Others 其他	4 320	51	1.2
Sub-total 小計	874 343	24 911	2.8
(D) <u>Transport, storage and communication</u> 運輸,貨倉及通訊業			
(1) Transport 貨運業	67 158	2 197	3.2
(2) Tourism 旅遊業	30 832	582	1.9
(3) Communications 通訊業	26 187	459	1.7
(4) Others 其他	7 481	323	4.1
Sub-total 小計	131 658	3 561	2.6

組別/行業 Sector/Industry	僱員 Employment	空缺人數 Number of vacancies	空缺率(%) Vacancy Rate (%)*
<u>(E) Financing, insurance, real estate and business services 金融、保險、地產及商業服務業</u>			
(1) Bank and finance 銀行及金融業	110 038	1 699	1.5
(2) Insurance 保險業	18 968	1 416	6.9
(3) Real estate 地產業	50 775	1 611	3.1
(4) Business services except rental of machinery & equipment 商業服務業不包括租賃機器 及設備	102 395	3 988	3.7
(5) Others 其他	1 427	12	0.8
Sub-total 小計	283 603	8 726	3.0
<u>(F) Community, social and personal services 社會及個人服務業</u>			
(1) Automobiles 汽車業	12 588	468	3.6
(2) Sanitary and similar services 清潔及服務業	29 766	807	2.6
(3) Education services 教育服務	82 559	1 247	1.5
(4) Medical, dental, other health or veterinary services 醫科、牙科及其他衛生健康及 獸醫服務	32 386	1 233	3.7
(5) Welfare institutions 福利服務	22 486	828	3.6
(6) Motion picture and other entertainment services 電影及其他康樂服務	18 545	735	3.8
(7) Others 其他	61 814	2 527	3.9
Sub-total 小組	260 144	7 845	2.9
(G) Other sectors # 其他組別	203 225	8 330	3.9
Total of above sectors 上述組別總計	2 497 576	79 564	3.1

註：包括採礦及採石業，電及煤氣業，及政府服務

Notes: # Including mining and quarrying, electricity and gas, and civil service.

空缺率的定義是空缺人數與就業及空缺人數之和的比率

* Vacancy rate is defined as the ratio of the number of vacancies to the sum total of employment and vacancies.

來源：統計處之僱傭、空缺及薪金總額按季統計調查

Source: Quarterly Survey of Employment, Vacancies and Payroll Statistics, Census & Statistics Department.

以職業主要組別分類之
失業及就業不足率
Unemployment and underemployment rates
by broad occupation categories

1991年五月至七月期間
During May - July 1991

	失業率 (未經季節性調整) Unemployment rate (not seasonally adjusted) (%)	就業不足率 Underemployment rate (%)
生產及有關工作人員, 交通 工具操作員及工人 Production and related workers, transport equipment operators and labourers	2.6	3.8
銷售人員 Sales workers	1.6)
服務行業人員 Service workers	2.1) 0.2
文職及有關工作人員 Clerical and related workers	1.6)
專業, 行政及經理級人員 Professional, administrative and managerial workers	0.8) 0.2
其他 Others	0.6)
所有職業 All occupations	2.1	1.5

職位空缺情況的摘要

Notes on Job Vacancies

第一 最新的主要經濟行業之職位空缺情況，
Note: 與 1990 輸入外地勞工計劃前的情況之比較如下

The latest position on job vacancies by selected major economic sectors, as compared to the position prior to the 1990 schemes, is as follows -

	空缺人數		空缺率	
	Number of vacancies		Vacancy rate	
	十二月 December 1989	六月 June 1991	十二月 December 1989	六月 June 1991
製造業 Manufacturing	36 174	25 249	4.4	3.6
零售批發及出入口業 Wholesale, retail and import/export trades	19 155	18 000	3.3	2.7
西樓及酒店業 Restaurants and hotels	7 753	6 860	3.7	3.0
運輸, 貨倉及通訊業 Transport, storage and communication	4 403	3 561	3.4	2.6
金融, 保險, 地產及商業服務業 Finance, insurance, real estate and business services	10 517	8 726	4.0	3.0

雖然技術員/技工級職位的空缺人數整體上有減少，但有些工業及服務行業之該等職位的空缺率則較其他行業高出頗多。以下列舉的工業及服務行業，其技術員/技工級職位的空缺率均較整體平均數為高。

Notwithstanding the overall decrease in the number of vacancies for technicians and craftsmen, the vacancy rates at the technician/craftman level in a number of industries and services are considerably higher than the rest. Examples of industries and services which have vacancy rates above the overall average at the technician/craftman level are:

1991年六月的空缺率
Vacancy rate
in June 1991

金屬製造業	Machine shops	4.60
貨運業	Transport services	4.53
傢俬業	Manufacture of furniture	4.11
汽車修理業	Automobile repairing	3.79

有關操作工人級職位，以下列舉的工業及服務行業之空缺率均較整體平均數為高：

In respect of the operative level, examples of industries and services having vacancy rates higher than the overall average are:

1991年六月的空缺率
Vacancy rate
in June 1991

酒店業	Hotels	8.60
製衣業	Manufacture of clothing	6.31
汽車修理業	Automobile repairing	5.41
手袋業	Manufacture of handbags	4.90

至於文員/秘書/銷售人員級職位，下列行業之空缺率均較整體平均數為高：

As regards the clerical/secretarial/sales level, sectors having vacancy rates higher than the overall average are:

1991年六月的空缺率
Vacancy rate
in June 1991

保險業	Insurance	10.51
貨運業	Transport services	5.49
酒店業	Hotels	5.11

Annex G (Cont'd)
 第二 有關督導員/技術員/技工, 操作工人, 文員/秘書/
 Note 2 銷售人員之整體空缺情況如下:

The overall vacancy position at the supervisory, technician/craftsman, operative, clerical/secretarial/sales levels is as follows:

	估計空 缺人數		空 缺 率	
	十二月 December 1989	六月 June 1991	十二月 December 1989	六月 June 1991
督導員 Supervisory	3 397	4 678	2.37	2.69
技術員/技工 Technician/ craftsman	13 968	9 725	3.77	2.80
操作工人 Operative	40 907	28 418	5.00	3.84
文員/秘書/銷售人員 Clerical/ secretarial/sales	23 214	20 421	5.06	3.82

以1991年六月與1989年十二月的情況作一比較, 則督導級職位的
 的空缺人數及空缺率均有顯著增長。而以下的行業的增長更為明顯
 Comparing June 1991 with December 1989, the number
 of vacancies and the vacancy rate at the supervisory level
 have shown a marked increase. The more significant
 increases are recorded in the following sectors:

	空 缺 率	
	十二月 December 1989	六月 June 1991
金屬品製造業 Machine shops	1.67	2.67
零沽批發及 出入口業 Wholesale, retail and import/export trades	2.91	3.27
銀行及財務業 Banking and finance	1.57#	3.25
酒店業 Hotels	2.19	2.52

Covering banking sector only 只包括銀行業

再者, 下列行業的督導級職位的空缺率均較
 整體平均數為高:
 Moreover, the following sectors have vacancy
 rates which are higher than the overall average for the
 supervisory level:

	1991年六月的空 缺 率
	Vacancy rate in June 1991
零沽批發及 出入口業 Wholesale, retail and import/export trades	3.27
銀行及財務業 Banking and finance	3.25
保險業 Insurance	3.17

以行業分類之僱員及空缺人數 - 1991年6月及9月
Employment and Vacancy by Industry - June 1991 and September 1991

組別 / 行業 Sector/Industry	1991年6月 June 1991			1991年9月 Sept 1991 @		
	僱員 Employment	空缺 人數 Number of Vacancies	空缺率 (%) Vacancy Rate (%) * Employment	僱員 Employment	空缺 人數 Number of Vacancies	空缺率 (%) Vacancy Rate (%)
(A) Manufacturing 製造業						
(1) Clothing 製衣業	219,116	11,854	5.1	217,207	11,395	5.0
(2) Textile 紡織業	57,360	1,204	2.1	55,644	887	1.6
(3) Machine shop 金屬品製造業	113,734	4,528	3.8	109,962	4,281	3.7
(4) Printing 印刷業	49,398	1,249	2.5	48,216	1,284	2.6
(5) Plastics 塑膠業	45,160	1,179	2.5	41,681	1,009	2.4
(6) Electrical 電機業	19,415	401	2.0	17,836	355	2.0
(7) Electronics 電子業	77,618	2,055	2.6	69,728	1,586	2.2
(8) Others 其他行業	99,284	2,779	2.7	95,151	2,617	2.7
Sub-total 小計	681,085	25,249	3.6	655,425	23,414	3.4
B) Construction sites 建築地盤業	63,762	942	1.5	63,873	762	1.2
C) Wholesales, retail and import/export trades, restaurants and hotels 批發零售及進出口貿易, 酒樓及酒店業						
(1) Wholesale, retail and import/export trade 批發零售及進出口貿易	649,723	18,000	2.7	656,629	20,547	3.0
(2) Hotel 酒店業	33,241	2,132	6.0	32,819	2,241	6.4
(3) Catering 飲食業	187,059	4,728	2.5	186,046	5,425	2.8
(4) Others 其他	4,320	51	1.2	4,799	4	0.1
Sub-total 小計	874,343	24,911	2.8	880,293	28,217	3.1
D) Transport, storage and communication 運輸、貨倉及通訊業						
(1) Transport 貨運業	67,158	2,197	3.2	68,153	2,130	3.0
(2) Tourism 旅遊業	30,832	582	1.9	31,015	543	1.7
(3) Communications 通訊業	26,187	459	1.7	24,742	1,025	4.0
(4) Others 其他	7,481	323	4.1	7,493	316	4.0
Sub-total 小計	131,658	3,561	2.6	131,403	4,014	3.0

組別 / 行業 Sector/Industry	僱員 Employment	空缺 人數 Number of Vacancies	空缺率 (%) Vacancy Rate (%) *	僱員 Employment	空缺 人數 Number of Vacancies	空缺率 (%) Vacancy Rate (%) *
(E) Financing, insurance, real estate and business services 金融、保險、地產及商業服務業						
(1) Bank and finance 銀行及金融業	110,038	1,699	1.5	111,111	1,742	1.5
(2) Insurance 保險業	18,968	1,416	6.9	19,095	898	4.5
(3) Real estate 地產業	50,775	1,611	3.1	52,864	1,425	2.6
(4) Business services except rental of machinery & equipment 商業服務業，不包括租賃機器及設備	102,395	3,988	3.7	104,706	4,387	4.0
(5) Others 其他	1,427	12	0.8	1,345	23	1.7
Sub-total 小計	283,603	8,726	3.0	289,121	8,475	2.8
F) Community, social and personal services 社會及個人服務業						
(1) Automobile 汽車業	12,588	468	3.6	12,571	647	4.9
(2) Sanitary and similar services 清潔及服務業	29,766	807	2.6	31,273	866	2.7
(3) Education services 教育服務	82,559	1,247	1.5	83,758	1,398	1.6
(4) Medical, dental, other health or veterinary services 醫科、牙科及其他衛生健康及獸醫服務	32,386	1,233	3.7	32,928	1,236	3.6
(5) Welfare institutions 福利服務	22,486	828	3.6	21,296	786	3.6
(6) Motion pictures and other entertainment services 電影及其他康樂服務	18,545	735	3.8	18,237	727	3.8
(7) Others 其他	61,814	2,527	3.9	62,070	2,685	4.1
Sub-total 小計	260,144	7,845	2.9	262,133	8,345	3.1
3) Other sectors# 其他組別	203,225	8,330	3.9	203,254	8,761	4.1
Total of above sectors 上述組別總計	2,497,820	79,564	3.1	2,485,502	81,988	3.2

註：# 包括採礦及採石業，電及煤氣業，及政府服務
Notes: # Including mining and quarrying, electricity and gas, and civil service.

* 空缺率的定義是空缺人數與就業及空缺人數之和的比率

* Vacancy rate is defined as the ratio of the number of vacancies to the sum of employment and vacancies.

@ 1991年9月的資料為臨時數字。最後的統計結果將於1992年1月17日發表

@ Data for September 1991 are provisional. The final results would be released to the public on 17 January 1992.

源：統計處之僱傭、空缺及薪金總額按季統計調查

Source: Quarterly Survey of Employment, Vacancies and Payroll Statistics, Census & Statistics Department.

選定之經濟行業內按主要職業組別分析之僱員及空缺估計數字
Estimated Employment & Vacancies by Broad Occupation Categories
in Selected Major Economic Sectors

(1991年9月#)
(As in September 1991 #)

經濟行業 Economic Sector	僱員 Employment	空缺人數 Number of Vacancies	空缺率* Vacancy Rate (%)*
	(1)	(2)	(3)=(2)/[(1)+(2)]x100%
1. Manufacturing 製造業			
Technician/Craftsman Level 技術員/技工級	213354	5852	2.67
Supervisory Level 督導員級	5711	156	2.66
Operative Level 操作工人級	324286	15015	4.43
Clerical, Secretarial & Sales Level 文員/秘書/銷售人員級	13670	532	3.75
2. Construction Sites 建築地盤業			
Technician/Craftsman Level 技術員/技工級	34897	478	1.35
Operative Level 操作工人級	12003	55	0.46
3. Wholesale, Retail and Import/Export Trades 批發零售及進出口貿易			
Supervisory Level 督導員級	62948	2403	3.68
Clerical, Secretarial & Sales Level 文員/秘書/銷售人員級	295466	13793	4.46
4. Hotel and Catering 酒店及飲食業			
Technician/Craftsman Level 技術員/技工級	4516	182	3.87
Supervisory Level 督導員級	39462	711	1.77
Operative Level 操作工人級	150283	6215	3.97
Clerical, Secretarial & Sales Level 文員/秘書/銷售人員級	10829	492	4.35
5. Banking, Finance and Insurance 銀行、金融及保險業			
Supervisory Level 督導員級	22457	733	3.16
Clerical, Secretarial & Sales Level 文員/秘書/銷售人員級	67726	1758	2.53

註：* 空缺率的定義是空缺人數與就業及空缺人數之和的比率

Notes : * Vacancy rate is defined as the ratio of the number of vacancies to the sum of employment and vacancies.

1991年9月的資料為臨時數字。最後的統計結果將於1992年1月17日發表

Data for September 1991 are provisional. The final results would be released to the public on 17 January 1992.

Ref. : EMB 2/3/581/92

LEGISLATIVE COUNCIL BRIEF

Employees Retraining Bill 1992

INTRODUCTION

At the meeting of the Executive Council on 2 June 1992, the Council ADVISED and the Governor ORDERED that the Employees Retraining Bill 1992, as annexed, should be introduced into the Legislative Council.

BACKGROUND AND ARGUMENT

Background

2. On 7 January 1992, the Council ADVISED and the Governor ORDERED, inter alia, that a statutory fund financed by a levy to be imposed on employers who import workers under the 1992 General Labour Importation Scheme should be established for augmenting the provision of training or retraining for local employees; and that, pending the establishment of the statutory fund board, a provisional fund board should be established to advise on the priority and funding of retraining programmes.

3. The Provisional Retraining Fund Board (PRFB) has since been formed to advise the Secretary for Education and Manpower. Ten pilot retraining courses are being planned for implementation in July 1992.

Retraining Courses

4. The pilot retraining courses proposed by the PRFB have been targeted at local workers who are most vulnerable in the economic re-structuring process, namely, workers who are unemployed or whose employment is at risk, or who wish to change to new jobs which require skills that they do not possess. They will, after satisfying criteria laid down by the PRFB, be eligible to attend relevant retraining courses approved by the PRFB and receive a retraining allowance of up to \$2,800 per month. The Local Employment Service (LES) will assist the trainees to find suitable employment after they have completed their retraining programmes. The work of the PRFB is expected to continue under a statutory board, to be called the Employees Retraining Board, upon passage of the proposed Bill.

Application Procedures

5. An applicant may obtain application forms from District Offices, branch offices of the Labour Department and training bodies and should submit his application to the LES of the Labour Department. Officers of the LES would assess

whether the applicant meets the criteria for retraining and if so refer him to the relevant training body. The training body would determine whether the applicant meets the entry requirement for the training course. The Employees Retraining Board is responsible for approving payment of retraining allowances which would be paid to trainees through the training bodies. Any person aggrieved by the decisions of the LES or a training body may apply to a review committee of the Board for a review of the decisions.

The Levy

6. The retraining scheme will be financed by a levy imposed on employers importing workers under the 1992 General Scheme at the rate of \$400 per worker per month multiplied by the number of months covered in the contract. Assuming that on average 12,500 workers will be imported in 1992 on two-year contracts, the total levy collected in 1992 will amount to \$120 million. If another 12,500 workers are imported in 1993 after the workers imported under the 1990 schemes (for which no levy was payable) complete their contracts, another \$120 million will be raised from the levy.

7. The levy was introduced as a contractual fee charged by Government in consideration of the grant of a quota to an employer for importing workers. However, it has always been the Government's intention to make the levy statutory. This is to ensure that the levy collected could be channelled directly to the statutory fund specified for retraining. Without such legislation, the levy collected would go into the general revenue and its application for the intended purpose would be subject to normal appropriation procedures. Consequently, we propose that the imposition and payment of the levy under the 1992 General Labour Importation Scheme should take effect from 9 January 1992 when Government's decision to impose a levy and to set up a statutory retraining fund was first announced.

Financial Arrangements

8. The levy will be collected by the Immigration Department. Pending enactment of the Bill, the levy collected will go into the general revenue first and will be transferred to the statutory fund when it is established. Thereafter the levy will be remitted to the fund direct.

9. Advance funding is required during this transitional period to finance the pilot retraining programmes and defray related expenses. On 8 May 1992 the Finance Committee of the Legislative Council noted that a recoverable advance of up to \$50 million would be made available to finance the retraining courses supported by the PRFB. The money so advanced will be recovered from the statutory fund when it is established.

Employees Retraining Board

10. The Employees Retraining Board will be a tripartite statutory body, comprising representatives of employers, employees and the Government. The Chairman and other members will be appointed by the Governor.

11. Upon establishment of the Board, the present level of services provided to the PRFB by one Senior Labour Officer on loan to the Education and Manpower Branch will need to continue for a period of time and be strengthened with necessary supporting staff to ensure smooth functioning of the Board. Longer term staffing requirements for the Board will be worked out after its establishment. The costs of any services provided by Government will be recovered from the Board.

THE BILL

12. The Bill seeks to create an Employees Retraining Fund and establish an Employees Retraining Board to take charge of the Fund for retraining local workers.

13. Part II of the Bill establishes the Employees Retraining Board and sets out its composition, powers and functions. Part III establishes the Employees Retraining Fund and covers the financial arrangements relating to payments from the Board as well as accounting and auditing procedures. Part IV deals with imposition and payment of the levy. Part V provides the machinery in respect of applications by trainees to attend retraining courses and claim their retraining allowances and includes a review procedure. Clause 33 provides for transitional arrangements.

LEGISLATIVE TIMETABLE

14. The legislative timetable will be -

Publication in the Gazette	12 June 1992
First Reading and Commencement of Second Reading debate	24 June 1992
Resumption of Second Reading debate, committee stage and Third Reading	To be notified

FINANCIAL AND STAFFING IMPLICATIONS

15. A recoverable advance of up to \$50 million will be made available to finance the retraining courses before the statutory fund is set up.

16. The cost of providing administrative support to the statutory board for the initial six months is estimated to be less than \$1 million. The collection of levy and the services provided by the LES in connection with the retraining scheme are estimated to cost \$280,000 and \$2.5 million a year respectively. All the resources required will be met from within existing baseline expenditure and the costs concerned may be recovered from the statutory fund as appropriate.

ECONOMIC IMPLICATIONS

17. Given that the payment of the levy is already a condition of the 1992 General Labour Importation Scheme, it will not lead to additional cost on those employers who are allowed to import workers under the Scheme. The augmented retraining programmes will in due course ensure that local employees can better adjust to job displacement and the demand for new skills as a result of restructuring of the economy.

PUBLIC CONSULTATION

18. The OMELCO Manpower Panel and the Labour Advisory Board have endorsed the proposal to establish a statutory body for augmenting retraining for local workers. The PRFB has also endorsed the proposed Bill.

PUBLICITY

19. A press release will be issued and a spokesman will be available to handle enquiries.

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LEGISLATIVE COUNCIL BRIEF

Special Importation of Labour Scheme
for the New Airport and Related Projects

INTRODUCTION

With the advice of the Executive Council, the Government has decided that -

- (a) the ceiling of imported workers permitted to work in Hong Kong at any one time under the special labour importation scheme for the new airport and related projects ("special scheme") should be set at 5,500 to cover projects which are already committed;
- (b) existing admission procedure should be retained, subject to (c) & (d);
- (c) as from 18 January 1993, employers who are granted permission to import workers under the special scheme should pay a levy in a lump sum based on a rate of \$400 a month per imported worker multiplied by the number of months covered in the employment contract;
- (d) imported workers applied for under (c) should be paid no less than the latest monthly allowable wage published by the Census and Statistics Department at the time the visa application is received by the Immigration Department in accordance with the conditions stipulated in the employment contract; and
- (e) the revenue generated from the levy should be used for augmenting the provision of training or retraining for local workers under the statutory Employees Retraining Scheme as proposed in paragraph 9.

BACKGROUND AND ARGUMENT

Background

2. On 29 May 1990, the Government decided that a special scheme for the importation initially of 2,000 construction workers should be established to facilitate construction of the new airport and related projects.

3. Under the special scheme, each principal contractor or consortium submits a preliminary importation application to cover their needs, including those of their sub-contractors, over the full duration of the contract. Of the applications for importation of 3,968 workers from the ten Airport Core Programme (ACP) contractors, 1,958 were approved. The approved level of 2,000 workers is therefore not sufficient to meet the demand.

SPECIAL LABOUR IMPORTATION SCHEME

4. We propose to revise the special scheme in order to cover those ACP projects for which financial commitment has been made but for which requirements of imported workers have not been fully taken into account in the original scheme. A list of relevant projects is at Annex A. We have not included certain works for which funding has not yet been approved namely, works related to the Airport at Chek Lap Kok (other than the Site Preparation Contract), the Airport Railway and that part of the Central and Wanchai Reclamation relating to the Airport Railway.

5. The need for importation will stem from two main factors, first, a lack of particular skills in the local labour market for which workers would need to be imported in any event, and secondly a shortfall of general labour in Hong Kong, which may fluctuate from time to time. For the first ten contracts awarded, applications for workers under the special labour importation scheme accounted for about 21% of the aggregate labour force for these contracts. This, however, was against a background of a relatively slack labour market in the local construction industry. Whilst it is proposed to use 21% as a baseline in our calculation of a new ceiling, it would be prudent to include a safety factor in the event that the local labour situation tightens. Furthermore, special allowance will need to be made for projects in more remote locations as the lengthy travelling time may discourage local workers.

6. Taking account of the estimated number of imported workers for ACP projects at Annex B and an additional safety factor of 1,000, we propose that a ceiling on the number of imported workers for the ACP projects actually working in Hong Kong at any one time be set at 5,500.

Admission Procedures

7. We propose to retain the existing procedures, subject to imposition of a retraining levy proposed in paragraph 9 and consequential payment of a minimum allowable wage set at median wage less \$400 per month to take account of the retraining

levy. The rest of the conditions should remain unchanged including mandatory registration of vacancies with the Labour Department when submitting preliminary applications by employers, no displacement of local workers with imported workers, fixed permissible deductions from wages to cover food and accommodation, payment of wages through the bank and completion of a standard contract in respect of each worker.

Retraining Levy

8. Under the general labour importation scheme announced on 7 January 1992, employers who import workers are required to pay a levy, the revenue generated from which will be channelled direct to the statutory Employees Retraining Fund for the provision of training or retraining for local employees. As the special scheme for the new airport and related projects was introduced before 1992, existing ACP employers who import labour are not required to pay the levy.

9. The levy to be collected in the next 2 years under the general labour importation scheme together with the \$300 million injection by the Government to the Employees Retraining Scheme will retrain about 10,000 workers annually over the next 2-3 years. Under section 14(3) of the Employees Retraining Ordinance, the Governor in Council may, from time to time, approve a labour importation scheme under the terms of which a levy shall be payable by employers in accordance with Part IV of the ordinance. In order to augment the Employees Retraining Fund to meet future needs, we propose that a levy be imposed on employers who import workers under the revised special scheme for the new airport and related projects. The revenue generated from the levy will be channelled direct to the Employees Retraining Fund in accordance with section 16 of the Employees Retraining Ordinance. The same rate of levy as the general labour importation scheme should apply, namely the levy should be paid in a lump sum based on a rate of \$400 per month per imported worker multiplied by the number of months covered in the employment contract. Labour costs for ACP contracts will not be increased by the training levy as wages paid to imported workers will be net of the levy.

FINANCIAL AND STAFFING IMPLICATIONS

10. The proposals will give rise to an increase in workload for the Immigration and Labour Departments. This will be met within existing resources.

ECONOMIC IMPLICATIONS

11. In order to provide sufficient labour resources in the construction industry for implementing the ACP projects under a tight time-table and to avoid labour costs being driven up excessively resulting in cost overruns, a special labour importation scheme for such projects to complement the local labour supply is considered necessary. Availability of a

flexible additional source of labour for the ACP projects means that the local construction industry can still have the capacity needed for taking on some other important construction projects at the same time. Moreover, if cost increases can be moderated within the construction industry by this means they will have less tendency to spill over to other sectors of the economy.

Education and Manpower Branch
18 January 1993

LABOUR ESTIMATES FOR COMMITTED ACP PROJECTS

<u>Committed ACP Projects</u>	Total Workforce <u>Estimate</u> (man-years)
The Airport (first runway and associated facilities)	
- Site Preparation Contract	5,000
North Lantau Expressway	3,700
West Kowloon Reclamation	6,800
West Kowloon Expressway	1,400
Western Harbour Crossing	2,600
Route 3 (part)	3,600
Lantau Fixed Crossing (including rail portion and Route 3 interchange)	8,000
Tung Chung Development Phase I	2,700

TOTAL	33,800

Estimated No. of Imported Workers for ACP Projects
(for which funds have been committed as at 1 January 1993)

1. The anticipated workforce (including both local and imported workers) which will be engaged on projects listed in Annex A has been estimated for each year up to 1997, based on the demand triggered by contract awards in that particular year. The number of foreign workers for whom contractors may be expected to apply up to 1997 are calculated by applying the 21% to the estimated workforce. This gives the following :-

<u>For contracts awarded in</u>	<u>Anticipated workforce (number of workers)</u>	<u>Importation needs</u>
1991 & 1992	19,300	4,100
1993	10,800	2,300
1994	2,700	600
1995	500	100
1996	500	100
1997	-	-

2. The length of ACP contracts varies depending on the nature of the works, and also workers for the contracts to commence in a particular year do not necessarily start work in the same year (for example, some types of workers may only be required at a later stage of the contract). Assuming workers deployment will be according to the contract expenditure, and that a foreign worker will, on average, remain for two years, the anticipated pattern of employment of foreign workers year-by-year based on the above contract-linked projections of likely importation needs is set out below:-

<u>Contracts awarded in</u>	<u>Projected no. of imported workers in HK</u>				
	<u>1993</u>	<u>1994</u>	<u>1995</u>	<u>1996</u>	<u>1997</u>
1991 & 1992	2,400	3,300	1,300	700	200
1993	400	1,100	1,500	1,000	300
1994		100	400	500	200
1995			100	100	100
1996				100	100
Total:	2,800	4,500	3,300	2,400	900

LEGISLATIVE COUNCIL BRIEF

IMPORTATION OF LABOUR : THE WAY FORWARD

INTRODUCTION

At the meeting of the Executive Council on 9 January 1996, the Governor ORDERED and the Council advised that:-

- a) The existing General Labour Importation Scheme (General Scheme) should be terminated and allowed to run down naturally.
- b) A Supplementary Labour Scheme (SLS) should be implemented on 1 February 1996. A review of the operation of the SLS should be conducted when 2,000 visas have been issued under the Scheme.
- c) The Special Scheme to import workers for the new airport and related projects (the ACP Scheme) should be continued in its present form but recruitment of local workers should be facilitated and promoted.

BACKGROUND AND ARGUMENT

2. The proposals to terminate the General Labour Importation Scheme and to introduce a supplementary labour scheme were announced in the context of the 1995/96 Governor's Policy Address on 11 October 1995. The proposals were then presented in greater detail in the Report of the Review on the General Labour Importation Scheme which was released at the briefing by the Secretary for Education and Manpower on the 1995/96 Policy Commitments in the Legislative Council on 12 October 1995. The proposed application and monitoring procedures of the proposed SLS were also explained to this Council at the meeting of the Manpower Panel on 20 November 1995.

3. Since then, the Administration has had extensive discussions with the Labour Advisory Board (LAB), members of this Council, employers and employees representatives on the detailed arrangements of the SLS. Having regard to the results of the discussions, the Executive Council has approved the implementation of the SLS, the main features of which are set out in the following paragraphs.

THE SUPPLEMENTARY LABOUR SCHEME

Policy Objective

4. To ensure that local workers have priority in employment and that their salaries and benefits are safeguarded, employers must accord priority to fill available job vacancies with local workers. If employers have genuine difficulties in finding suitable staff locally, they can import workers to fill such vacancies.

Commencement Date

5. The SLS will commence on 1 February 1996.

Approval System

6. Applications from employers from any sector of industry will be processed on a case by case basis and on their own merits.

Types of workers Allowed

7. Having regard to the availability of local labour and the underlying principle of the scheme, requests for imported workers in certain job categories will not normally be approved. However, employers who can demonstrate a genuine need for imported workers in these job categories may submit applications to LD for consideration. Subject to consultation with the Labour Advisory Board, a tentative list of the job categories is at Annex I.

Application Procedure

8. Employers applying for imported workers under the SLS have to *pass three tests*:

- a) They must first make genuine efforts to recruit locally through newspaper advertisements for a specified period;
- b) They must participate in the Labour Department's Job Matching Programme (JMP).

- c) Where appropriate, the Employees Retraining Board will be asked to organise special courses to train up local workers to meet the requirements of the employers.

Monitoring

9. The operation of the scheme will be monitored by the Labour Advisory Board, and regular reports will be submitted to the Manpower Panel of the Legislative Council. A more detailed description of the application, processing and monitoring procedure is at Annex II.

Review

10. When a total of 2,000 visa applications have been approved under the SLS, a review will be conducted by the Government in consultation with the Labour Advisory Board to ensure that the SLS is achieving its policy objective. The review is expected to be completed within 6 weeks and the outcome will be presented to the LegCo Panel on Manpower for discussion.

11. During the period of the review, the Government will, based on the special circumstances of the cases, continue to process applications in consultation with the Labour Advisory Board and grant approval if fully justified.

THE ACP SCHEME

12. The ACP Scheme is paramount to the timely completion of the new airport and related projects. Recent labour disputes involving imported workers (IWs) in the ACP have revealed that some IWs do not

know their rights and entitlement. We have therefore tightened the conditions for importation under the ACP scheme. Since 1 November 1995, employers must comply with the following conditions :

- (a) give a copy of employment contract to his imported workers;
- (b) provide him with details of his monthly earnings; and
- (c) provide him with a monthly statement showing all transactions of his bank account.

Additional new initiatives to safeguard imported workers will also be introduced. They are at Annex III.

13. In order to encourage local workers to apply for ACP job vacancies, we have reached an agreement with the Airport Authority (AA) and the MTRC to set up an ACP Job Centre, to improve ferry service to Chek Lap Kok to local workers and to maintain suitable accommodation for local workers on Chek Lap Kok.

The ACP Job Centre

14. The AA and the MTRC will set up an ACP Job Centre which will be used for displaying ACP vacancies, receiving applications for ACP jobs, conducting recruitment interviews and making arrangements for signing of employment contracts. They will provide the Labour Department and labour unions concerned with office in the centre to deal with enquiries and complaints from workers and contractors. The objective is to open the centre in mid-January 1996.

Transportation to Chek Lap Kok (CLK)

15. A new ferry service from Central and Kowloon to CLK will be introduced on a trial basis for workers in mid-January 1996. This will be free of charge, as are the AA's other ferry services.

Accommodation at CLK

16. The AA has confirmed that accommodation at CLK is available for local workers now. Indeed, about 30 local workers are living there at the moment. AA will publicise this fact.

FINANCIAL AND STAFFING IMPLICATIONS

17. Implementation of the SLS requires the stepping up of the JMP and setting up of the job matching centre. The Finance Committee has provided C for L with an additional annually recurrent funding of \$6 million for creation of 23 posts to introduce the JMP starting in 1995-96. We estimate that the Labour Department would require an additional funding of \$10.5 million in 1995/96 and \$17.0 million on a full year basis to operate the job matching centre. Sufficient savings have been identified from within the global allocation for the Education and Manpower Branch to finance the operation of the centre.

18. The AA and the MTRC will be responsible for expenses related to the setting up of the ACP Job Centre. The Labour Department will absorb from within its funding allocation the additional resource requirements arising from engaging in the work of this centre.

ECONOMIC IMPLICATIONS

19. The SLS represents a practical compromise enabling shortfalls in particular types of workers, as demonstrated by inability to hire such workers on the part of employers despite intensive recruitment effort, to be met by imported labour. This accords with the basic objective of our labour importation scheme, i.e. to avoid labour shortages in particular areas posing bottleneck to business operation and economic growth.

PUBLICITY

20. SEM will meet the press in the afternoon of 9 January, 1996(Tue) to announce the decision to terminate the General Scheme, the implementation of the SLS, the setting up of the ACP Job Centre and further measures to safeguard ACP imported workers against abuse.

21. A press release will also be issued and anyone who have any enquiries on this paper should be addressed to Mr Raymond FAN, Principal Assistant Secretary for Education and Manpower on 2810-3032 or Mrs Jennie CHOR on 2852-4160.

Education and Manpower Branch
EMBCR 16/7/3051/87
9 January 1996

**Tentative list of job categories to be normally excluded from
the Supplementary Labour Scheme**

Sales Representative	Presser
Sales Assistant	Hair Stylist
Waiter/Waitress	Warehouseman
Receptionist	Cutter
Cashier	Cutting Room Operative
Junior Cook	Inspection Operative
Food Processing Worker	Delivery Worker
Clerical Worker	Driver
Teller	Demolition Worker
Computer/Key Punch Operator	Mason
Telephone Operator	Spray Paint Worker
Uniform and Linen Attendant	Drain Layer
Washer	Leakage Worker

APPLICATION, PROCESSING & MONITORING PROCEDURES OF THE SUPPLEMENTARY LABOUR SCHEME

Application

- (a) Applications for permission to import labour under the SLS have to be submitted by interested employers to the Labour Department (LD).
- (b) The employer should complete a standard form for application and vacancy registration purposes giving information on :
- the number and type of vacancies
 - in respect of each type of vacancies
 - * pay and conditions of employment
 - * skill, experience and education requirements
 - * employment duration and period
 - plan to train up local workers and to increase productivity
- (c) The Labour Department will conduct initial vetting of the applications for 2 weeks and screen out frivolous applications, e.g. those with wages much lower than market rate, age and sex discrimination, unreasonable education and skill requirements, etc.
- employers who have rectified the restrictive requirements can re-apply

- employers who claim to have reasons to maintain the special requirements can ask for their cases to be referred to the Labour Advisory Board

(d) In respect of screened-in applications, employers are required to

- advertise their vacancies at least once a week in two newspapers for 2 weeks; and
- concurrently, join LD's Job Matching Programme (JMP), which will be expanded to all local job-seekers irrespective of their age, for 2 months

(e) LD will publicise the vacancies again in a JMP Supplement and provide active job matching service. Where appropriate and necessary, e.g. applications which involve a comparatively large number of workers, the Employees Retraining Board will be involved to organise tailor-made courses or to arrange on-the-job training for local workers.

(f) The total recruitment period will be 2 months, which will include the period for employer's own recruitment effort and JMP. Special cases which have already gone through the advertisement and JMP process may be given special consideration for early approval if recommended by LAB.

(g) At the end of the recruitment period, the employer is required to provide to the Labour Department the following information on recruitment effort in a standard form :

- number of job seekers who have applied for the vacancies
- number of interviews conducted
- number of applicants hired and whether they are still on the job
- number of applicants not hired and reasons of not hiring them
- number of declined offer cases

Processing

- (a) Having received the information on recruitment effort from employers, the LD will assess whether the request for importation of labour is justified. A case summary which does not carry the name of the employer will be prepared for each application. Recommendation will then be made to LAB for negative vetting for a week before submission to the Secretary for Education and Manpower for final approval. Should members have any queries on LD's recommendations, they may refer those cases to LAB for consideration and, if considered necessary, members may have access to the case files concerned, which will have information on, inter alia, the name and address of the applicant.
- (b) Upon approval, the employer can apply to the Immigration Department which will process the application in the normal manner.

Imported workers admitted are allowed to work in Hong Kong for a maximum of 24 months.

- (c) Unsuccessful applicants can write to the Labour Department for reconsideration. All re-consideration cases will be first vetted by LD before they are referred to the Labour Advisory Board.

Monitoring

- (a) The operation of the Scheme will be monitored by the Labour Advisory Board which will be provided with regular reports on the operation and statistics of the Supplementary Labour Scheme. Its advice will be sought on :

- general criteria for screening out frivolous applications and processing screened-in-applications
- recommendations by LD on individual applications
- appeal for reconsideration cases
- wage levels of specific job types
- any changes to the operation of the Scheme

- (b) Quarterly reports will be submitted to the Manpower Panel of the Legislative Council.

**New initiatives to safeguard the interests of imported workers under
the Special Labour Importation Scheme
for the New Airport and Related Projects**

The Administration is considering the following new initiatives to safeguard the interests of imported workers :

(a) Verification of employment contract

The employers will be required to give an undertaking to the Labour Department that the imported workers have received a copy of the employment contract specifying the post and amount of wages before they come to Hong Kong. Officers of the Immigration Department will ask the imported worker to present his employment contract for inspection shortly after they arrived in Hong Kong.

(b) Provision of meal

The conditions of the ACP Scheme provide that an employer can deduct up to a maximum of 15% of a worker's monthly salary in order to cover the cost of the meals provided. To stem out malpractice regarding the excessive deduction of wages for meals, it is proposed to

amend the standard employment contract to the effect that provision of meals shall be the responsibility of the employee. If meals are provided by the employer, they shall be provided free of charge.

(c) Undertakings by employers on provision of accommodation

Employers will be required to give an undertaking on the provision of standard accommodation to their imported workers. This will be a condition for visa approval. Suitable and furnished accommodation of a standard as specified in the Schedule to the Employment Contract should be ready for inspection by the Labour Department prior to the granting of working visas by the Immigration Department.

2. The Administration intends to implement items (a) and (b) as soon as possible. Item (c) concerning provision of accommodation has already been effected.

Scheme for importation of foreign domestic helpers (FDHs)

The scheme conditions approved by the Chief Executive in Council with respect to the importation of FDHs are as follows:

We envisage that Permanent Secretary for Economic Development and Labour (Labour) (PSL), on the authority delegated by SEM, would set out, as a matter of policy, the eligibility criteria for employers importing FDHs, as follows:

- (a) For every FDH to be employed, the employer must have a household income of no less than \$15,000 per month (or 4.6 times of the revised MAW) or assets of comparable amount to support the employment of an FDH for the whole contractual period. (The existing level is \$14,680 or four times the MAW.) Hence, if an employer intends to hire two FDHs, he/she must have at least \$30,000 monthly household income or comparable assets and so on. The monthly household income of \$15,000 can be adjusted by the Government from time to time.
- (b) The FDH and the employer shall enter into a standard employment contract.
- (c) The FDH shall only be required to perform domestic duties as per the Schedule of Accommodation and Domestic Duties for the employer attached to the standard employment contract.
- (d) The FDH shall not be required or allowed by the employer to take up any other employment with any other person during his/her stay in Hong Kong and within the contract period specified in Clause 2 of the standard employment contract.
- (e) The employer undertakes to pay the FDH salary that is no less than the minimum allowable wage announced by the Government and prevailing at the date of application for employing the FDH.
- (f) The FDH shall work and reside in the employer's residence as specified in Clause 3 of the standard employment contract. Employers who obtained D of Imm's approval before the implementation date of this new policy can continue to let their FDHs live out, so long as they

continue to employ FDHs without a break of more than 6 months.

- (g) The FDH shall be provided with decent accommodation and reasonable privacy. (Examples of unsuitable accommodation are: the FDH having to sleep on make-do beds in the corridor with little privacy or sharing a room with an adult or teenager of the opposite sex.)
- (h) Employers found breaching any statutory provisions, any provisions of the employment contract or any of the above conditions may be debarred from employing FDH(s) for a period of time.
- (i) The bona fides of the employer and FDH are not in doubt; there is no known record to the detriment of the employer and the FDH; and the employer is a bona fide resident in Hong Kong.

The Immigration Department would, as an administrative agent of PSL, vet the applications to ensure that the applications fulfil the requirements of the quota. As a matter of policy and for administrative efficiency, those employers who satisfy the eligibility criteria in paragraph 3 above would be regarded by PSL as being allocated a quota in respect of their application for employment of FDHs with a contract period of two years. A levy shall be paid to the D of Imm in accordance with the ERO before the issuance of employment visa.

Should an employer wish to continue to hire the same FDH upon the expiry of the two-year period, he/she will be required to submit a fresh application.