

立法會
Legislative Council

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LC Paper No. CB(2)398/04-05
(These minutes have been
seen by the
Administration)

Panel on Manpower

Minutes of meeting
held on Thursday, 18 November 2004 at 2:30 pm
in Conference Room A of the Legislative Council Building

Members present : Hon LAU Chin-shek, JP (Chairman)
Hon KWONG Chi-kin (Deputy Chairman)
Hon Albert HO Chun-yan
Hon LEE Cheuk-yan
Hon CHAN Yuen-han, JP
Hon LEUNG Yiu-chung
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Andrew CHENG Kar-foo
Hon Abraham SHEK Lai-him, JP
Hon Tommy CHEUNG Yu-yan, JP
Hon Frederick FUNG Kin-kee, JP
Hon Vincent FANG Kang, JP
Hon WONG Kwok-hing, MH
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon LEUNG Kwok-hung

Members attending : Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon Bernard CHAN, JP
Hon Howard YOUNG, SBS, JP

Member absent : Hon LI Fung-ying, BBS, JP

Public Officers attending : Item II

Mr Matthew CHEUNG Kin-chung
Permanent Secretary for Economic Development and
Labour (Labour)

Mrs DO PANG Wai-yee
Assistant Commissioner for Labour (Policy Support and
Strategic Planning)
Labour Department

Mrs Jenny CHAN
Assistant Commissioner for Labour (Employees' Rights
and Benefits)
Labour Department

Miss Carrie CHANG
Senior Administrative Officer (Policy Support)
Labour Department

Mrs Vivian TING
Principal Executive Officer (Tender)
Financial Services and the Treasury Bureau

Mr MOK Kam-kwan
Deputy Government Property Administrator
Government Property Agency

Mr LO Tai-fai
Chief Property Manager (Property Management)
Government Property Agency

Mr Ricky K M CHUI
Assistant Director (Finance)
Leisure and Cultural Services Department

Mr LO Fu-wai
Assistant Director (Grade Management and Development)
Food and Environmental Hygiene Department

Mr LEUNG Sai-chi
Chief Manager/Management (Support Services 1)
Housing Department

Mr CHOI Chun-sun
Senior Statistician (Labour) 2
Census and Statistics Department

Item III

Mr Stephen IP
Secretary for Economic Development and Labour

Mr Matthew CHEUNG Kin-chung
Permanent Secretary for Economic Development and
Labour (Labour)

Dr LO Wai-kee
Occupational Health Consultant (1)
Labour Department

Mrs Jenny CHAN
Assistant Commissioner for Labour (Employees' Rights
and Benefits)
Labour Department

Item IV

Mr Stephen IP
Secretary for Economic Development and Labour

Mr Matthew CHEUNG Kin-chung
Permanent Secretary for Economic Development and
Labour (Labour)

Mrs DO PANG Wai-yee
Assistant Commissioner for Labour (Policy Support and
Strategic Planning)
Labour Department

Miss Carrie CHANG
Senior Administrative Officer (Policy Support)
Labour Department

Mr H Y CHEUNG
Principal Economist
Financial Secretary's Office

Clerk in attendance : Mrs Sharon TONG
Chief Council Secretary (2) 1

Staff in attendance : Miss Betty MA
Senior Council Secretary (2)1

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I. Date of next meeting and items for discussion
(LC Paper Nos. CB(2)207/04-05(01) and (02))

Members agreed that the following items proposed by the Administration be discussed at the next meeting to be held on 16 December 2004 at 2:30 pm -

- (a) voluntary rehabilitation programme for employees injured at work;
and
- (b) Hong Kong's occupational safety performance in the first half of 2004.

II. Extension of the mandatory requirement for employment terms for non-skilled workers engaged in projects or services contracted out by the Government to public bodies
(LC Paper No. CB(2)129/04-05(04))

2. Principal Executive Officer (Tender)/ Financial Services and the Treasury Bureau (PEO(T)/FSTB) took members through the Administration's paper. She briefed members on the latest position on the mandatory requirement for employment terms for non-skilled workers engaged in projects or services contracted out by the Government. Regarding extending the arrangement to public bodies, PEO(T)/FSTB said that as public bodies had their own procurement policies, contract approval procedures and authority for awarding contracts, it would be up to these bodies to decide whether to adhere to the Government's practice. Nevertheless, these bodies had been encouraged to follow the Government's practice, where possible.

3. Mr WONG Kwok-hing said that of the 17 occupations listed in the Annex to the Administration's paper, the monthly wages for 12 occupations were lower than the monthly allowance for a four-member family under the Comprehensive Social Security Assistance (CSSA) scheme. Mr WONG further said that the monthly wages for cleansing workers and security guards offered by the tenderers were lower than the average wages published in the latest issue of the Census and Statistics Department (C&SD)'s Quarterly Report of Wage and Payroll Statistics (Quarterly Report). He asked about the basis for determining the average wage rates and why the wages for workers offered by the tenderers were lower than the market rates.

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4. Permanent Secretary for Economic Development and Labour (Labour) (PSL) explained that the implementation of the mandatory requirement on wage rates for government service contracts was to ensure that a tender offer would not be considered if the wage rates offered by the tenderer to their non-skilled workers were less than the level of the average wages for the relevant industry/occupation as published in the latest C&SD's Quarterly Report at the time when the tender documents were issued. The average monthly wages were not linked to the CSSA allowance. Neither were they minimum wages for the industry/occupation concerned.

5. Regarding the wages for workers offered by the tenderers, PSL said that the wage rates offered would depend on when the tenders were invited. As the mandatory requirement on wage rates for service contracts was promulgated in May 2004, the wage rates for government service contracts were determined by making reference to the average monthly wages published in C&SD's Quarterly Report issued in the last quarter of 2003 or the first quarter of 2004, and not the latest issue being referred to by Mr WONG Kwok-hing.

6. Senior Statistician (Labour)2/C&SD (SS/C&SD) added that in compiling the C&SD's Quarterly Report, the department would collect wage information on a predefined list of occupations from establishments randomly selected. Quoting guards as an example, SS/C&SD said that the guard occupations were found in security service and property management companies. As the job nature and requirements of the two types of work were different, the average monthly wages for the former was normally lower than the latter. He further said that the wages for guards offered by the tenderers would depend on the requirements of the work involved. To his understanding, most of the guards employed by government contractors were performing duties similar to security guards in security service companies.

7. Mr WONG Kwok-hing said that given the wage rates for security guards offered by the tenderers were lower than the average monthly wages published in C&SD's Quarterly Report, the Administration should review the existing wage rates offered.

8. PSL explained that the average monthly salaries as published in C&SD's Quarterly Report were related to an average number of normal hours of work per day and average number of standard working days per month. The monthly wages for security guards offered by the tenderers were calculated on the basis of eight working hours per day and 26 working days per month, whereas the average wages published in the Quarterly Report were calculated on the basis of 11 working hours per day and 26 working days per month. As a result of longer working hours, the average monthly wages published in C&SD's statistics would be higher than the monthly wages offered by the tenderers under the mandatory requirement. Yet, the

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wage rate offered, in accordance with the mandatory requirement, was not lower than that published in the Quarterly Report.

9. Referring to a letter from a government service contractor to his security guards, Mr WONG Kwok-hing said that he had received some complaints from security guards employed by the Housing Department (HD)'s service contractors that their wage rates were lower than those under the mandatory requirement because they were offered the post of "special security guards", which was not specified in the tender documents. With the concurrence of the Chairman, the letter provided by Mr WONG was tabled at the meeting.

(Post-meeting note : The letter provided by Mr WONG Kwok-hing was circulated to members vide LC Paper No. CB(2)254/04-05 on 19 November 2004.)

10. PSL said that in the event that a government service contractor paid a wage rate lower than those specified in the employment contract, it constituted a breach of the Employment Ordinance. The contractor was liable to a fine of \$100,000 and one-year imprisonment upon conviction. PSL further said that while the Administration would not tolerate contractors paying wages less than that offered in the tender bid, the Administration could not take action against the contractors unless the workers reported the cases to the procuring department or LD. The workers concerned were, however, reluctant to report cases of breaching contractual obligations as they were afraid of losing their jobs. PSL added that any cases with criminal element would be referred to the Police for further investigation. He stressed that the Administration would keep the identity of the employee(s) involved in strict confidence until prosecution was instituted against the contractor.

11. Mr LEE Cheuk-yan asked about the progress of a case in which 11 workers had lodged a complaint with the Leisure and Cultural Services Department (LCSD) in January 2004 against their employer, who was LCSD's service contractor, for offering them wage rates lower than those specified in the tender. Mr LEE said that LCSD was unable to advise whether and when prosecution would be instituted against the service contractor concerned as it was seeking the advice from the Department of Justice. However, the 11 workers concerned had been dismissed already. As the case had been dragged on for a very long period, these workers would be discouraged from serving as prosecution witnesses in future cases. He considered that to speed up the process, those service contractors who paid wages lower than those specified in the tender documents should lead to immediate termination of the service contract. Mr LEE asked whether the Administration would consider drawing up guidelines for the enforcement departments in this respect.

12. Assistant Commissioner for Labour (ACL) said that the first hearing of the case mentioned by Mr LEE was held in the latter half of 2004. Assistant Director

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(Finance) /LCSD (AD/LCSD) added that if the contractor concerned was convicted, LCSD would take immediate action to terminate the contracts. AD/LCSD said that LCSD was very concerned about the progress of the case. To facilitate the termination action according to the terms of the contract, LCSD staff had visited workers being employed by the contractor to collect more evidence on the allegation of wage underpayment. However, there were difficulties in gathering enough evidence against the contractor. AD/LCSD further said that according to the advice of the Department of Justice, it would have a better chance of incriminating the contractor concerned if the workers were prepared to serve as witnesses.

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13. Mr LEE Cheuk-yan said that as far as the court case was concerned, there was enough evidence and witnesses in support of the claim that the service contractor had breached the tender specifications by offering a lower wage rate to the workers. Mr LEE strongly urged the Administration to consider taking immediate action to terminate the contract and blacklist the contractor concerned from bidding future government service contracts. Mr LEE Cheuk-yan and the Chairman requested the Administration to keep the Panel informed of the development of the court case.

14. Mr LEE Cheuk-yan said that C&SD's statistics on average wages for security guards might not reflect the real market situation. He pointed out that security guards were normally working on either a 12-hour or eight-hour shift. By simply converting the average wages for all security guards into that for eight hours, the resulting monthly wages for the eight-hour shift security guards would be brought down. Mr LEE suggested that when conducting surveys in future, specific information on wages for 12-hour shift and eight-hour shift in respect of security guards should be collected and provided.

15. SS/C&SD explained that C&SD compiled the average monthly wages for individual occupations based on data obtained from the labour market. This was a common practice and had served most general purposes well for many years. There had not been any requests for further breakdowns within the overall average for the guard occupation. It was noted that most security guards worked either on 12-hour or eight-hour shifts, with the majority working indeed on 12-hour shift. The average wage published by C&SD was thus able to reflect the average situation of the market. However, it was noted that most of the security guards employed by government service contractors worked eight-hour shift. C&SD could consider additionally providing separate figures for guards working on such shift if required.

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16. Mr LEE Cheuk-yan said that as the statistics published by C&SD would determine the wage rates for workers offered by government service contractors, C&SD should also provide the Panel with figures on wages for security guards working an eight-hour shift.

17. Mr LEE Cheuk-yan further said that if a contractor offered wage rates higher than the requirements specified in the tender, HD would, in the past, add points to

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the contractor concerned in the contract awarding assessment. This provided incentives for the contractors to offer higher wage rates. However, HD had abolished the system. In his view, this was to the disadvantage of the workers. Mr LEE also asked whether the leave relief for security guards employed by HD's service contractors were receiving lower wage rates than the contract security guards, and if so, whether a uniform wage rate should be payable to the security guards for performing the same type of work.

18. Assistant Director (Grade Management and Development) /Food and Environmental Hygiene Department (AD/FEHD) said that in considering a tender offer, apart from observing the established procurement procedures, FEHD would add points to those offered wage rates higher than the average wages published in C&SD's Quarterly Report. Past performance of the tenderer would also be taken into consideration.

19. Responding to Mr LEE Cheuk-yan, Chief Manager/Management, Housing Department (CM/HD) said that in assessing tenders, HD at present did not give additional scores to the contractors if they offered committed wages higher than C&SD's average wage rates for cleansing workers and security guards, but would consider such suggestion to additional scores to higher committed wages. Regarding the question of some security guards were receiving lower wages, CM/HD said that wages for all security guards would be adjusted and at a level of not less than the C&SD's average wage rates upon the expiry of the current contracts.

20. Mr LEE Cheuk-yan said that different marking schemes were adopted by government departments in awarding government service contracts, FSTB should draw up a set of uniform guidelines for departments.

21. PEO(T)/FSTB said that as a general rule, a tender offer would not be considered if, during the 12-month period prior to the tender closing date, the tenderer had had a total of three or more convictions under the relevant employment-related and immigration ordinances. Nor should a tender offer be considered if, during the four most recent quarters before the tender closing date, the tenderer had received from one or more departments a total of six demerit points. PEO(T)/FSTB further said that the Administration was studying the introduction of a notification system under which information on serious breaches of contractual obligations in respect of wages, working hours and signed written employment agreement with non-skilled workers committed by a contractor would be placed on the Government's intranet for reference amongst government departments. PEO(T)/FSTB added that the procuring departments would consider terminating the contracts if the contractors had breached the contractual obligations.

22. Mr LEUNG Kwok-hung said that the enforcement of employment-related ordinances was lagging behind the present-day need. Mr LEUNG considered that

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the existing provisions in various employment-related ordinances failed to provide sufficient deterrence on unscrupulous employers, and the penalties for convicted employers was disproportionate to the gravity of their offences. For instance, if a contractor made falsified pay records, he would be prohibited from bidding future government service contracts. However, the contractor concerned could simply submit a tender under the name of another company. Mr LEUNG urged the Administration to treat such acts as a criminal offence and invoke provisions in other ordinances with a view to imposing a heavier penalty on the contractors, if convicted.

23. PSL said that the Administration would apply for a review if it considered that the sentence handed down by the court to the convicted contractor was too lenient. He further said that in case of fraudulent acts, such cases would be referred to the Police for follow-up as this was a criminal offence, and the Labour Department (LD) would conduct investigations jointly with the Commercial Crime Bureau of the Police Force.

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24. Mr LEUNG Kwok-hung asked whether the Commercial Crime Bureau of the Police Force would only deal with cases which involved \$5 million or above. PSL said that the Police would investigate fraud insolvency cases irrespective of the amount involved. At the request of Mr LEUNG Kwok-hung, PSL agreed to provide information on the number of fraud insolvency cases referred by LD to the Police for follow-up actions.

25. Miss CHAN Yuen-han said that the Administration should ensure the tenderers were in compliance with the wage rates specified in the tender documents as they were bidding. While the mandatory requirement on wage rates was not a minimum wage, she considered that the wage rates should not be lower than the monthly allowance under CSSA.

26. PSL said that at the meeting of the Panel on Manpower on 22 April 2004 when the subject of employment terms for persons engaged in projects or services contracted out by the Government was discussed, the Panel passed a motion urging the Government to adopt the average monthly wages of selected occupations published by C&SD as the standard of wage rates for workers engaged in projects or services contracted out by the Government. PSL further said that the Administration made an immediate response to the motion. On 6 May 2004, the Government promulgated a new mandatory requirement on wage rates for service contracts (excluding construction services) that relied heavily on the deployment of non-skilled workers. As the new mandatory requirement had been implemented for a few months only, the Administration would review the arrangement in the light of operational experience.

27. Miss CHAN Yuen-han said that the market wage rates for cleansing workers and security guards had dropped as compared with those in the first-half of the year.

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In the light of circumstantial changes, the Administration should review the wage rates under the mandatory requirement in order to better safeguard the interests of workers.

28. Miss CHAN Yuen-han further said that she had received a number of complaints from workers that the responsible staff allegedly accepted bribes from the service contractors and the workers were offered wage rates lower than the mandatory requirement. Miss CHAN wondered whether the Administration was aware of the situation, and if so, the number of cases of alleged bribery handled so far.

29. AD/LCSD said that LCSD maintained close liaison with the law enforcement departments. Any suspected cases of corruption would be referred to the Independent Commission Against Corruption (ICAC) for follow-up actions. He further said that as far as LCSD's contractors were concerned, there were a few cases under investigation by ICAC.

30. Mr LEUNG Yiu-chung said that the purpose of introducing the mandatory requirement on wage rates for service contracts was to safeguard the interests of workers. However, if the workers were to receive a monthly salary lower than the monthly allowance under CSSA, this defeated the purpose of the mandatory requirement. It was the Government's responsibility to safeguard the interests of workers and raise their living standards. Mr LEUNG further said that in drawing up the tender documents, the Administration calculated the monthly wages offered by tenderers on the basis of eight working hours per day and 26 working days per month. To his understanding, some LCSD tenderers calculated the monthly wages on the basis of seven and a half working hours per day under which the monthly wages would be lower than working eight hours per day. However, the workload would almost be the same for those working for eight hours and seven and a half hours a day. Mr LEUNG asked whether such calculation method was acceptable in submitting a bid for tender. AD/LCSD said that he would provide information on such cases, if any, after the meeting.

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31. PEO(T)/FSTB said that the relevant departments would require tenderers to propose the daily working hours and the number of working days per month in the tender documents having regard to the operational needs of individual departments. The proposal would be binding.

32. Mr Andrew LEUNG said that most of the employers were willing to offer a reasonable wage rate for workers. Mr LEUNG further said that to be fair to those employers who abided by the law, the Administration should expedite actions against those employers who had breached tender requirements. To impose additional sanction, a tender offer would not be considered if the tenderer was involved in court proceedings relating to breaches of employment-related ordinances. Mr LEUNG added that in the light of the Administration's difficulties

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in collecting evidence to institute prosecution, the Administration should step up publicity to encourage workers to report cases of breaching employment conditions to the relevant departments administering the service contracts and consider putting in place a mechanism to handle the complaints made by workers, e.g. complaint hotlines.

33. PEO(T)/FSTB said that departments administering the service contracts had devised monitoring mechanisms to ensure that their contractors complied with the contractual obligations in respect of wages, working hours and signed written employment agreement. Past records of convictions and breaches of the contractual obligations would affect the concerned contractors' chance of success in their future bids for government service contracts.

34. Mr Andrew LEUNG said that while he was in support of the implementation of a demerit point system against contractors who had breached their contractual obligations, he hoped that the Administration could enhance the transparency of the system by making public the criteria for deducting points and the marking scheme for tender assessment.

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35. PEO(T)/FSTB assured members that the tendering procedures were open and fair. She further said that records of compliance with the Employment Ordinance, Employees Compensation Ordinance and Immigration Ordinance and relevant contractual obligations were assessed in the marking scheme for tender assessment. Some departments also allotted additional marks if a wage rate offered was higher than that of the C&SD's Quarterly Report, and this arrangement would be spelt out in the tender document to encourage tenderers to offer higher wage rates for their employees. The Chairman requested the Administration to provide members with the information with regard to the marking scheme for tender assessment.

36. Mr Abraham SHEK said that although the Administration disagreed that the mandatory requirement on wage rates for service contracts was a minimum wage, the rates were regarded by contractors and workers as a guide on the wage rates for selected occupations. As members had raised numerous problems arising from the mandatory requirement, he considered the Administration should review the arrangement with a view to addressing the problems.

37. PEO(T)/FSTB stressed that the mandatory requirement on wage rates was to ensure that monthly wages offered by the tenderers to their non-skilled workers would not be less than the average wages for the relevant industry/occupation as published in the latest C&SD's Quarterly Report at the time of tender invitation. It was not a minimum wage for non-skilled workers. She added that as the mandatory requirement was promulgated only in May 2004, the Administration would review the arrangement in the light of its operational experience.

III. Proposal to add Severe Acute Respiratory Syndrome and avian influenza A as occupational diseases under the Employees' Compensation Ordinance
(LC Paper No. CB(2)207/04-05(03))

38. PSL briefed members on the Administration's proposal to add two new diseases viz. Severe Acute Respiratory Syndrome (SARS) and avian influenza A, to the Second Schedule to the Employees' Compensation Ordinance and Schedule 2 to the Occupational Safety and Health Ordinance. The proposed legislative amendments would expedite the compensation process as employees in specified high-risk occupations did not need to prove that their injury was by accident arising out of and in the course of employment. PSL said that the impact of the proposal on employees' compensation insurance premium was unlikely to be significant, but more than 100 000 employees would be protected under the proposal.

39. Regarding the proposal of prescribing SARS as an occupational disease, Miss CHAN Yuen-han said that some staff associations of the medical and healthcare sectors had suggested that the prescribed employment period should be shortened to 14 days as it remained uncertain whether the incubation period for the disease would be less than 14 days. Miss CHAN further said that the poultry industry welcomed the proposal of prescribing avian influenza A as an occupational disease.

40. Occupational Health Consultant/LD said that with reference to the SARS cases, the incubation period for the disease was normally not more than 14 days. The prescribed employment period was therefore proposed to be a double of the incubation period. PSL said that the proposed prescribed employment period set out the upper limit of the period immediately preceding the incapacity and within which the employee was employed at any time in the specified trade.

41. Miss CHAN Yuen-han said that the Administration should gauge further views of the medical and healthcare sectors on the proposed prescribed employment period for SARS.

42. Mr LEE Cheuk-yan expressed support for further safeguarding the interests of employees. Mr LEE said that as the legislative proposal would have no retrospective effect, he asked about the number of compensation claims from employees that they had got infected with SARS in the course of employment which were under dispute or rejected.

43. PSL said that of the compensation claims from 414 employees who were infected with SARS in the course of employment, most of the claims were not in

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dispute. ACL said that in some cases, there were disputes over whether the employees got infected with SARS in the course of employment. For most of these cases, the employers affirmed that the employees were infected with SARS in the course of employment after considering the contact tracing reports prepared by the Department of Health. ACL added that there were currently about 20 cases with dispute on whether it was employment-related.

44. Mr Bernard CHAN said that the insurance industry raised no objection to the legislative proposal. After the coming into force of the proposal, the insurance industry would be in a better position to assess the risks of SARS and avian influenza A in the premium rate for employees' compensation insurance policies. However, he envisaged that there would be an upward adjustment on the employees' compensation insurance premium.

IV. Proposal for prescribing the maximum number of working hours
(LC Paper No. CB(2)207/04-05(04))

45. Noting that the Administration would put the issue of maximum working hours to the Labour Advisory Board (LAB) for discussion in December 2004, Miss CHAN Yuen-han expressed concern that the Administration was using LAB as a façade of dealing with the issue. She asked about the specific timetable for the discussion. Miss CHAN further asked whether the Administration had assessed the impact of prescribing the maximum number of working hours on different industries and occupations.

46. Miss CHAN Yuen-han then referred to paragraph 4 of the Administration's paper and said that there were nearly 300 000 employed persons working more than 60 hours a week. This meant that these persons were working for more than 10 hours a day. To safeguard the interests of employed persons, she reiterated that the Administration should draw up a concrete timetable and strategy to address the problem of unduly long working hours.

47. Secretary for Economic Development and Labour (SEDL) said that the Administration was sincere in dealing with the issue of maximum working hours, although the relevant motion was not passed at the Legislative Council (LegCo) meeting on 13 October 2004. SEDL said that the issue of maximum working hours was complicated and had a far-reaching impact on the socio-economic development of Hong Kong. He pointed out that even the employee side expressed different views regarding the issue. Some employees considered that if a statutory ceiling was imposed on working hours, they would end up with less pay as they would be working fewer hours. SEDL further said that it would be appropriate to initiate the discussion on the issue by LAB, which was a high-level tripartite consultation forum on labour matters. It would be for LAB to work out its own work plan.

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48. PSL said that in view of the complexity of the issue, LD, together with the Government Economist and C&SD, was in the process of assessing the possible impact of introducing maximum working hours in Hong Kong. The Administration would analyse the characteristics of the groups of employees who were working longer hours with respect to the nature of their trade.

49. Mr LEE Cheuk-yan said that the proposal of prescribing maximum working hours sought to protect the interests of workers with the least bargaining power. After prescribing the maximum working hours, the employers would have to compensate employees with overtime allowance if they were required to work after the prescribed working hours. He believed that the total working hours of employees could be reduced. Mr LEE further said that the Hong Kong Confederation of Trade Unions held the view that overtime allowance should be calculated on one and a half times of the basic hourly wage rates.

50. Mr LEE Cheuk-yan envisaged that in the absence of the Administration's position on the issue, no consensus could be secured amongst the parties concerned in LAB. Mr LEE said that being a responsible Government, apart from assessing the implication of the proposal on the cost of doing business, the Administration should assess the social cost of prolonged working hours, e.g. the family problems that could arise.

51. SEDL said that the parties concerned should be very careful in pursuing the proposal. For instance, whether safeguarding the interests of employees by prescribing the maximum working hours would mean no overtime work allowed. To facilitate LAB's deliberation, the Administration was compiling the statistics on the working hours in various trades. While it might be possible to prescribe the maximum working hours in some trades, SEDL stressed that any decision must be acceptable to the parties concerned.

52. Mr LEE Chuek-yan said that he did not oppose to putting the issue to LAB for deliberation. However, the Administration should state clearly its stance on the issue and provide the implementation details for LAB's consideration.

53. Mr Frederick FUNG asked whether the Administration would consider prescribing the maximum working hours for workers employed by government service contractors. Mr FUNG said that as the employer side had made clear their opposition to the issue, there would be no consensus reached by LAB. He wondered if it was the Administration's tactic for not taking forward the proposal by putting the issue to LAB for deliberation. Mr FUNG added that putting the issue to LAB was making the consensus reached by LAB a prerequisite for introducing the relevant legislation into LegCo.

54. PSL said that as far as government service contractors were concerned, the wage rates and working hours of workers were specified in the tender documents.

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55. Mrs Selina CHOW said that Members belonging to the Liberal Party and the business sector unequivocally opposed to setting statutory minimum wage and maximum working hours. Mrs CHOW pointed out that past experience showed that employees would eventually suffer if the employers faced an adverse business environment. As a result of a large part of Hong Kong's manufacturing industry moved to the Mainland, the unskilled labour force was struggled to find low paid jobs in the local labour market. The setting of maximum working hours would further undermine the competitiveness of local labour force with neighbouring areas. Mrs CHOW further said that in pursuing the issue of maximum working hours, those who supported the proposal should make clear whether they were striving for overtime allowance for overtime work or safeguarding the interests of workers. Mrs CHOW added that the Administration did not support setting statutory maximum working hours in the past. She was concerned that the Administration had already changed its position on the issue by putting it to LAB for deliberation.

56. SEDL said that the Administration had made clear its position on the issues of setting statutory maximum working hours and minimum wage. As he had explained earlier, as the issues were complicated and would have far-reaching implications, they should be carefully deliberated by all parties concerned. SEDL stressed that since LAB was a tripartite consultation forum on labour matters, it was Government's well-established practice to put forward labour-related matters to LAB for deliberation in the first place.

57. Mr WONG Kwok-hing said that the purpose of prescribing maximum working hours was to protect industries with the least bargaining power, e.g. security and cleansing. Mr WONG further said that while he welcomed that the Administration kept an open mind on the issue, the Administration should provide options for LAB's deliberation. He was concerned that in the absence of any options for discussion, no consensus would be reached among members of LAB. Instead of outlining the pros and cons to LAB for consideration, the Administration could provide concrete options, e.g. to create more job opportunities by introducing five-day work in a week in the civil service and to encourage other public bodies to follow the arrangement.

58. SEDL said that as the Administration kept an open mind on the issue, it did not want to give members of LAB an impression that the Administration had a position on the issue by providing options to LAB. SEDL reiterated that the issue was so important that it should be studied in depth. Consensus must be secured among employers, employees and the Government. It would, therefore, be appropriate for LAB to work out its own work plan.

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59. Mr WONG Kwok-hing expressed dissatisfaction that the Administration was not prepared to provide concrete proposals to LAB for discussion. He asked whether members of LAB could put forward proposals to LAB for consideration.

60. SEDL said that any views and suggestions would be welcomed and considered by LAB. He assured members that the Administration would strike a balance between the interests of employers and employees in taking forward any proposal.

61. Mr LEUNG Yiu-chung said that since 1970s, the employers would normally object to introducing new labour policy initiatives on the grounds that the proposal would weaken the competitiveness of the relevant industries. However, he could not see any adverse impact on the economy simply because of the enactment of labour laws. In his view, investors attached more importance to political stability than labour laws in deciding whether or not to invest. Mr LEUNG further said that to facilitate the deliberation of LAB, the Administration should provide supporting statistics and facts in its paper to strengthen its arguments for statutory maximum working hours. Such information might clear the doubts of employers about the impact on the business environment, who might then express support for the proposal.

62. SEDL said that the research being conducted by the Administration was a pragmatic and positive approach to take forward the issue. The research findings would provide LAB with information on the characteristics of the groups of employees who were working longer hours. SEDL further said that he disagreed that the employer side would not support any labour policy initiatives. For instance, the long service payment was a proposal supported by LAB. SEDL stressed that putting the issue to LAB for deliberation was the first step to study the proposal.

63. Mr Abraham SHEK agreed that the issue should be put to LAB for deliberation. However, he considered that calls for legislation to stipulate the maximum number of working hours and minimum wage level were a step backward. While keeping an open mind on the issue, LAB should give new thoughts on ways to build the trust between employers and employees, with a view to enhancing productivity and getting higher pay.

64. The Deputy Chairman expressed agreement that the issue should be put to LAB for deliberation. However, the issues of introducing a statutory minimum wage system and setting a minimum wage level should be dealt with separately. The Deputy Chairman said that there were more divergent views over the proposal of prescribing the maximum number of working hours than setting a minimum wage level. Regarding the former proposal, some employees were not in favour of the proposal as they were concerned that their pay would be cut for working fewer hours. They would support the proposal only if a mechanism to monitor the payment of overtime allowance was put in place. The Deputy Chairman suggested

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that LAB should give priority to deal with the proposal of a minimum wage. Alternatively, LAB might consider prescribing the maximum number of working hours in selected occupations in the first place.

65. SEDL said that he would be willing to convey the suggestion to LAB for consideration, if members so agreed.

66. Mr LEE Cheuk-yan said that to his knowledge, Finland ranked the top in the list of countries with the highest competitive edge, even though the working hours in Finland were almost the least as compared with other countries. This reflected that labour laws would not necessarily have adverse impact on the economy. The crux of the matter was whether the economy had comparative advantage over its competitors. Mr LEE hoped that the Administration and the employer side could take note of this.

67. SEDL said that the research underway was to provide the most up-to-date relevant information and statistics to LAB for examining the issue of maximum working hours.

V. Any other business

68. There being no other business, the meeting ended at 4:50 pm.