

立法會

Legislative Council

LC Paper No. CB(1)1786/05-06
(These minutes have been seen
by the Administration)

Ref : CB1/PL/TP/1

Panel on Transport

**Minutes of meeting held on
Friday, 28 April 2006, at 10:45 am
in the Chamber of the Legislative Council Building**

- Members present** : Hon LAU Kong-wah, JP (Chairman)
Hon Andrew CHENG Kar-foo (Deputy Chairman)
Ir Dr Hon Raymond HO Chung-tai, S.B.St.J., JP
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon Miriam LAU Kin-ye, GBS, JP
Hon TAM Yiu-chung, GBS, JP
Hon Abraham SHEK Lai-him, JP
Hon LI Fung-ying, BBS, JP
Hon Tommy CHEUNG Yu-yan, JP
Hon Albert CHAN Wai-yip
Hon WONG Kwok-hing, MH
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon LEUNG Kwok-hung
Hon CHEUNG Hok-ming, SBS, JP
Hon Albert Jinghan CHENG
- Members attending** : Hon LEE Cheuk-yan
Hon CHAN Yuen-han, JP
Hon LEUNG Yiu-chung
Hon KWONG Chi-kin
- Members absent** : Hon LAU Chin-shek, JP
Hon LEE Wing-tat

**Public Officers
attending**

: Agenda item IV

Dr Sarah LIAO
Secretary for the Environment, Transport and Works

Mr Joshua LAW
Permanent Secretary for the Environment, Transport and
Works

Mr Patrick HO
Deputy Secretary for the Environment, Transport and Works

Mr David LAU
Principal Assistant Secretary for Financial Services and the
Treasury

Agenda item V

Mr Patrick HO
Deputy Secretary for the Environment, Transport and Works

Miss Ida LEE
Principal Assistant Secretary for the Environment, Transport
and Works

Agenda item VI

Miss Angela LEE
Principal Assistant Secretary for the Environment, Transport
and Works

Ms Carolina YIP
Deputy Commissioner for Transport/
Transport Services and Management

Mr Don HO
Assistant Commissioner for Transport/
Management and Paratransit

Ms Carol CHEUNG
Chief Transport Officer/Ferry Planning
Transport Department

**Attendance by
invitation**

: Agenda item IV

MTR Corporation

Mr C K CHOW
Chief Executive Officer

Mr William CHAN
Human Resource Director

Mrs Miranda LEUNG
General Manager – Corporate Relations

Kowloon-Canton Railway Corporation

Ir James BLAKE
Chief Executive Officer (Designate)

Mrs Mimi CUNNINGHAM
Director – Human Resource

Mrs Grace LAM
General Manager – Corporate Affairs

Alliance of Five Unions in Two Rails

MTRC Staff Union

Mr CHAN Sin-wo
Chairman

Mr LO Pun-wai
Vice-Chairman

Hong Kong Mass Transit Railway Staff General Association

Mr MAK Pui-tung
理事長

Mr TSUI Sak-on
副理事長

Kowloon-Canton Railway Operating Staff Association

Ms LAU Choi-hung
Chairman

Mr LEE Shing
Representative

Kowloon-Canton Railway Worker's Union

Mr KO Pak-kwan
理事長

Mr LO Tung-ki
Secretary

Kowloon-Canton Railway Employees Association

Mr LAM Kwan-yui
主席

Mr HO Chun-pong
福利主任

Staff Consultative Council, MTR Corporation

Mr AU Ka-hung
Chief Coordinator

Mr AU Min-kee
Councillor

Agenda item VI

New World First Ferry Services Ltd.

Mr John HUI
Director and General Manager

Ms Josephine LAM
Corporate Communications Manager

Hong Kong & Kowloon Ferry Ltd.

Mr Nelson NG
Director and General Manager

Ms April LAM
Management Executive

Clerk in attendance : Mr Andy LAU
Chief Council Secretary (1)2

Staff in attendance : Ms Sarah YUEN
Senior Council Secretary (1)6

Miss Winnie CHENG
Legislative Assistant (1)5

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I Confirmation of minutes and matters arising

(LC Paper No. CB(1)1234/05-06 - Minutes of the meeting held on
24 February 2006)

The minutes of the meeting held on 24 February 2006 were confirmed.

II Information papers issued since last meeting

(LC Paper No. CB(1)1209/05-06(01) - Submission from a Mr CHEUNG on
Corporate Governance of
Kowloon-Canton Railway
Corporation

LC Paper No. CB(1)1322/05-06(01) - Submission from Taxi & P.L.B.
Concern Group on public transport
policy

LC Paper No. CB(1)1325/05-06(01) - Submission from The Experience
Group on development of rail based
transport in the Central and Wanchai
harbour-front)

2. Members noted the information papers issued since last meeting.

III Items for discussion at the next meeting scheduled for 26 May 2006

(LC Paper No. CB(1)1347/05-06(01) - List of outstanding items for
discussion

LC Paper No. CB(1)1347/05-06(02) - List of follow-up actions)

3. Members agreed that the following items proposed by the Administration would
be discussed at the next regular meeting scheduled for 26 May 2006 –

(a) Road P1 advance works at Sunny Bay, Lantau; and

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(b) Rail Merger – Proposed steps for the legislative exercise.

(Post-meeting note: At the request of the Administration and with the concurrence of the Chairman, item (a) was subsequently deferred to a later meeting. The revised agenda was issued vide LC Paper No. CB(1)1529/05-06 on 18 May 2006.)

IV Merger of MTR and Kowloon-Canton Railways Systems – Staff-related issues

(LC Paper No. CB(1)1378/05-06(01) - Submission from the Alliance of Five Unions in Two Rails

LC Paper No. CB(1)1291/05-06(01) - Information paper provided by the Administration for the joint Panel meeting on 12 April 2006

LC Paper No. CB(1)1347/05-06(03) - Supplementary information provided by the Administration)

4. The Chairman invited the Administration and the management of the two railway corporations to brief members on the staff-related issues arising from the rail merger.

5. The Secretary for the Environment, Transport and Works (SETW) briefed members on the supplementary information provided by the Administration on the estimated overall staff synergy of 650 – 700 full-time equivalents which was expected to be achieved over a number of years as a result of the proposed merger of the MTR and Kowloon-Canton Railway (KCR) systems (the rail merger) and the net increase of 1 300 staff vacancies in the first three years arising from network expansion and other business growth, retirement and projected turnover. She advised that staff were important assets of the two railway corporations. While job security was provided for frontline staff, the two corporations would look after the interest of all staff. For those affected staff, the post-merger corporation (MergeCo) would make every effort to make appropriate re-deployment arrangements. It would also align the terms and conditions of employment and grading structure of MTR Corporation Limited (MTRCL) and Kowloon-Canton Railway Corporation (KCRC) to facilitate the integration of the human resources of the two corporations. She further pointed out that the rail merger had been proposed for the purpose of optimizing the development potential, enhancing operational efficiency and improving the management of the two corporations and would bring overall benefits to the community as a whole. Upon the rail merger, the relative strength of MTRCL and KCRC could supplement each other. MergeCo would therefore have new opportunities to expand into the Mainland and international market and as a result would continue to keep and attract talents. Since staff was important to the two corporations, she urged the management and staff of the two corporations to work closely together.

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6. The Chief Executive Officer of MTRCL (CEO/MTRCL) supplemented that the merger proposal was a fair and balanced deal and could strike a balance of the interests of all stakeholders. The synergy effect achieved by the rail merger would make fare reductions possible without affecting the job security of frontline staff of the two railway corporations. Moreover, all staff would benefit from new career development opportunities arising from new business opportunities. He emphasized that MTRCL attached great importance to communication with staff. Following the Government's announcement of the merger package on 11 April 2006, MTRCL had already arranged more than 60 briefings for its staff. MTRCL would maintain regular communication with its staff and seek their views on issues arising from the rail merger which were of concern to them. MTRCL would also do its best to safeguard the interests of staff in the merger process. He then briefed members on the Annex to the supplementary information on staff synergies and job vacancies, and said that redeployment and retraining would be provided to mitigate impacts of the rail merger on affected staff. A special team would be set up for the purpose.

7. The Chief Executive Officer (Designate) of KCRC (CEO/KCRC) added that a close dialogue between the two railway corporations on the rail merger had already been established and it was believed that consensus could be achieved on various issues. As in the case of MTRCL, open exchange of views between the management and staff of KCRC on merger details had already been effected through briefings and question and answer sessions. KCRC staff were assured that their concerns would be addressed by the relevant merger working groups. Regular two-way communication with staff by various means would be maintained during the whole merger exercise. Being the CEO of KCRC, he would ensure that KCRC staff would receive equitable treatment in the merger process.

8. The Chairman welcomed the deputations to the meeting. He then invited the deputations to take turn and present their views on staff-related issues arising from the rail merger. He said that in order to better manage the meeting time and to ensure fairness to all deputations, each deputation would be given three minutes to present its views.

MTRC Staff Union

9. Mr CHAN Sin-wo, Chairman of the Union, put forward the following views –
- (a) There should be a proper mechanism to ensure that a staff member falling within the definition of frontline staff but who was subsequently transferred to a non-frontline job position on the initiative of the management would continue to have job security;
 - (b) In the transition to the unified set of employment terms and conditions of MergeCo, staff should be given a choice to stay in their prevailing terms and conditions of employment or switch to the new set of employment package if

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they wished;

- (c) The two corporations should look after the interests of all staff and the proposed rail merger should not give rise to any compulsory lay-off of staff. MergeCo should make every effort to assist the affected staff and make appropriate re-deployment arrangements. Legislative amendments should be introduced to safeguard the interest of staff; and
- (d) Although the rail merger would bring overall benefits to the community as a whole, it was of equal importance that the concerns raised by the staff side should be adequately addressed before proceeding with the rail merger.

10. Mr LO Pun-wai, Vice-Chairman of the Union, urged MTRCL to look after the interests of all staff of the two railway corporations so as to ensure their job security. Provisions on employment-related matters should be clearly set out in the legislation as was the case in the privatization of Mass Transit Railway Corporation (MTRC) in 2000 when employment contracts signed between staff and MTRC and employees' benefits payable by MTRC were adequately protected by law.

Hong Kong Mass Transit Railway Staff General Association
(*LC Paper No. CB(1)1367/05-06(01)*)

11. Mr MAK Pui-tung, 理事長 of the General Association, referred members to the submission (LC Paper No. CB(1)1378/05-06(01)) from the Alliance of Five Unions in Two Rails (the Five Unions), which reflected the common views of the five staff unions in the two railway corporations. He then briefed members on the General Association's submission, and highlighted the following points –

- (a) MTRCL staff were concerned that certain frontline staff were not covered in the definition of “frontline staff” as announced by Government and the corporations, for example, office staff in the areas of property management, human resources, public relations, administration, logistics, etc. This arrangement was unfair to the affected groups of frontline staff. Since most of existing staff had had the benefit of their working experience in a particular discipline/field, re-deployment might not be the best way to explore their potentials. As such, every effort should be made to ensure that they could stay in their current jobs after the rail merger;
- (b) Trade unions should be allowed to directly participate in formulating the unified set of terms and conditions of employment with MergeCo for better protection of the interest of staff; and
- (c) Priority should be given to the affected staff as a result of the staff synergies to fill the 1 300 job vacancies.

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Kowloon-Canton Railway Operating Staff Association

12. Ms LAU Choi-hung, Chairman of the Association, said she was pleased to learn that SETW and the CEOs of the two railway corporations were aware of the concerns of the staff side, and hoped they would genuinely do something to address their concerns. She then put forward the staff Association's views as follows –

- (a) KCRC staff had always considered themselves to be an integral part of KCRC and had been working hard to maintain a very high operational standard to enable KCRC to become a leading world public transport operator. Despite the recent incident on KCRC's corporate governance issues, KCRC staff had continued to perform professionally to provide a smooth, safe and quality rail service. In order to maintain such high level of service, there was a need to ensure smooth transition of all staff of the two corporations to MergeCo;
- (b) It was hoped that MTRCL's management and the Government could really look after the interest of all staff. To gauge the views of the staff side on issues arising from the rail merger, there was a need to put in place an effective communication channel between management and staff unions; and
- (c) As a result of the proposed rail merger, KCRC had been employing quite a number of staff on contract terms since 2003. This arrangement had brought about a divisive effect and caused disparity to the workforce. The proposed delineation of frontline staff as announced by Government in April 2006 would further aggravate the situation. It was hoped that all staff could stay in their current jobs after the rail merger irrespective of their grades or ranks. MergeCo should seriously consider making the best use of existing staff in filling job vacancies and provide necessary assistance to redeploy and retrain affected staff. Permanent posts should also be provided for staff employed on contract terms since March 2003 so as to boost the morale of staff to ensure continued provision of a reliable, quality and safe railway service by MergeCo.

Kowloon Canton Railway Workers Union

13. Mr KO Pak-kwan, 理事長 of the Workers Union, briefed members on the submission of the Workers Union tabled at the meeting. In gist, the Workers Union had the following views –

- (a) The Government should openly undertake not to lay off any serving staff of the two railway corporations both before and after the rail merger;

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- (b) The proposed definition of “frontline staff” was too narrow for the purpose of assuring job security for all frontline staff. Moreover, although SETW had previously assured members at a meeting of the Panel that staff represented by staff unions would most likely be covered in the definition, the fact was that many members of staff unions fell outside the scope of the proposed definition. To upkeep staff morale whilst ensuring a smooth rail merger and a reliable, safe and comfort railway service, there should be an undertaking from Government and MergeCo that no staff would lose his/her job because of the merger proposal;
- (c) MergeCo should arrange for involvement of representatives of staff unions in working out the new employment terms and conditions, and solicit the support of staff on all staff-related matters affecting them before making a final decision;
- (d) The fact that about one-third of KCRC’s staff was employed on contract terms was not conducive to maintaining staff morale. Permanent vacancies should be offered to contract staff to ensure smooth transition; and
- (e) In relation to KCRC staff who were ex-KCR staff transferred from the Government to KCRC in the corporatization exercise of KCR in 1983 and still enjoying certain civil service benefits (the ex-KCR staff), the Government should honour its undertaking to ensuring that they could still be eligible for enjoying the relevant civil service benefits after the rail merger.

(Post-meeting note: The submission of the Workers Union was issued to members vide LC Paper No. CB(1)1399/05-06(01) dated 2 May 2006.)

Kowloon-Canton Railway Employees Association

14. Mr LAM Kwan-yui, 主席 of the Employees Association, said that the merger proposal had failed to address the concerns of staff about the job security for frontline staff, the arrangements for accommodating the affected staff as a result of the staff synergies and other related transitional arrangements. In particular, there was no mention of whether contract staff could continue to stay in their current jobs after the rail merger. Moreover, there were still uncertainties regarding the franchise of bus operation in the North-west Transit Service Area. Given that new job vacancies arising from network expansion and other business growth would not be available on Day One of the merger, he was concerned that some staff might be affected as a result. The Association therefore sought assurance from MergeCo that priority should be given to existing staff to fill up new job vacancies. To ensure job security of staff whilst protecting their interest, MergeCo should arrange for involvement of representatives of staff unions in the relevant discussions. MergeCo should handle staff-related issues in a fair, open and equitable manner. It was also hoped that a regular communication system among the

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Government, the corporations and the staff side could be established to resolve all complaints and related issues arising from the rail merger. Despite the proposed rail merger, he assured that KCRC staff would continue to act professionally to ensure a rail service of world standard.

(Post-meeting note: The submission of the Employees Association was provided after the meeting and issued to members vide LC Paper No. CB(1)1399/05-06(02) dated 2 May 2006.)

Staff Consultative Council of MTR Corporation Limited
(LC Paper No. CB(1)1367/05-06(02))

15. Mr AU Ka-hung, Chief Coordinator of the Council, briefed members on the Council's submission, and highlighted the concerns of MTRCL staff about job security and likely deterioration of pay and benefits as a result of the alignment of the different employment terms and conditions of the two railway corporations. It was hoped that staff would be properly consulted before finalizing MergeCo's unified set of terms and conditions of employment for staff. It was also hoped that the job security of non-frontline staff would also be assured during the merger integration process.

16. Mr AU Min-kee, Councillor of the Council, went on to brief members on the Council's views, and urged that the provisions on employment contracts and employment benefits incorporated in the Mass Transit Railway Ordinance (Cap.556) be maintained for MergeCo to legally protect the employment rights of staff. He also called upon MTRCL to reach a consensus with the staff side through its long established and effective communication mechanism so as to ensure that the proposed rail merger could bring benefits to all passengers, shareholders and staff.

Discussion

Staff concerns in general

17. Mr KWONG Chi-kin declared interests as the legal adviser to the Five Unions, and briefed members on its submission. Members noted that all five staff unions of both railway corporations attending this meeting had jointly put forward the following proposals –

- (a) All staff of the two railway corporations should continue to act professionally to maintain a safe and quality rail service;
- (b) The definition of “frontline staff” was unclear, unfair and not specific enough;
- (c) Arrangement should be made for staff made redundant because of the rail merger to fill other posts through internal redeployment and retraining. A

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more specific guarantee that no staff would be laid off because of the rail merger should be given;

- (d) The existing terms and conditions of employment of the staff of the two railway corporations should not be adversely affected because of the rail merger; and
- (e) A regular communication system among the Government, the corporations and the Five Unions should be established.

18. SETW appreciated that all staff of the two railway corporations would continue to act professionally to maintain a safe and quality rail service during the merger integration process. Regarding the views of the staff side, she gave the following responses –

- (a) To address concerns about the scope of the definition of “frontline staff”, the two railway corporations would continue to discuss with their staff;
- (b) No frontline staff would lose his/her job because of the merger proposal. Dismissal of staff during the merger integration process would not happen unless for example, they had committed a serious fault necessitating the taking of disciplinary action. It was expected that the majority of all staff would stay in their current jobs after the rail merger. For those affected staff, MergeCo would make every effort to make appropriate re-deployment arrangements. It would provide necessary assistance to redeploy and retrain affected staff;
- (c) Regarding concern about the new set of employment terms and conditions, it would not differ significantly from the existing employment terms and conditions. However, since there were some differences between the employment terms and conditions of the two railway corporations such as working hours, they should be aligned and therefore a unified system should be adopted in MergeCo; and
- (d) Concerning the need for a regular communication mechanism, there were established consultation mechanisms through the Staff Consultative Committees (SCC)/Consultative Committees (CC) of the two railway corporations. It was believed that the two corporations would make good arrangements for involvement of the representatives of both the SCC/CC and unions in the discussions of staff-related matters arising from the merger.

Communication and appeal

19. In response to Mr WONG Kwok-hing’s question on whether a regular communication system among the Government, the two railway corporations and the

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Five Unions as proposed by the Five Unions would be established, SETW said that future staff arrangements would be handled fairly and equitably in the rail merger exercise, and special task forces had already been established by the two corporations to deal with staff-related matters. She had also met with the Five Unions. The Human Resource Director of MTRCL (HRD/MTRCL) added that MTRCL had well established mechanism for consultation and communication with its staff. This tradition would continue. In fact, MTRCL had already started communicating with the Five Unions and had undertaken to maintain regular communication with them. In response to the Chairman, he agreed to report back in three weeks' time whether the above proposal of the Five Unions would be implemented.

20. Mr WONG Kwok-hing called for an undertaking to set up a merger appeal mechanism as proposed by the Five Unions which involved the participation of representatives of staff unions so as to ensure that any disagreement and complaints from the staff side relating to the merger issues could be properly handled and resolved. In response, SETW said that the proposal to set up a merger appeal mechanism would be looked into by the special task forces of the two railway corporations. HRD/MTRCL added that MTRCL would consider setting up an appeal mechanism for handling appeals arising from the rail merger with involvement of staff representatives. As to how such representatives were selected, the details would need to be worked out between the two railway corporations and their staff. Mr WONG stressed the need for having representatives of staff unions sitting on the merger appeal board. In response, HRD/MTRCL undertook to actively consider his view in conjunction with staff of the two railway corporations, and to report back in three weeks' time whether the above proposal from the Five Unions would be implemented.

Admin

21. Mr TAM Yiu-chung opined that the Administration should play a more active role in the merger-related negotiation between the management and staff of the two railway corporations to ensure that the concerns raised by staff would be adequately addressed by MergeCo. In response, SETW said that whilst the Administration was concerned about the impact of the proposed rail merger on staff, staff arrangements were matters that should best be resolved through discussion between the management and staff. The Administration however would maintain communications with the Five Unions.

22. Quoting the examples of the Bills Committee on the Chinese Medicine Bill and the Bills Committee on the Construction Industry Council (No. 2) Bill whereby prolonged time was spent on resolving staff-related issues during the scrutiny period, Miss CHAN Yuen-han remarked that to expedite scrutiny of the bill to implement the proposed rail merger, proper preparatory work should be made beforehand, including provision of job security for all staff of the two railway corporations as it related to the rail merger. In this regard, she opined that it would be advisable to have the relevant details sorted out among the Government, staff unions and the corporations before introducing the relevant bill into the Legislative Council. In her view, involvement of only SCC/CC representatives in this regard was not enough because, unlike staff unions,

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they were not sufficiently representative of staff. She also saw the need for setting up a merger appeal mechanism, and urged MTRCL to adopt an open mind in this respect as was the case in adopting the wage protection policy for non-skilled workers for future contract awards or renewals relating to its railway operations.

23. In response, CEO/MTRCL emphasized that an undertaking had already been given for maintaining regular communication with staff in the merger process. Government would also maintain their communication with the unions at important stages. Special task forces in this regard would be formed by the two corporations and staff would be consulted on the choice of staff representatives in various working groups. There was also already an established mechanism for handling appeals. Such arrangement would continue for the handling of future merger-related appeals regarding staffing arrangement. The Director-Human Resource of KCRC (DHR/KCRC) added that there was also regular communication with staff and staff unions in KCRC. Government would be kept informed of any such communication. KCRC also had a very sound appeal mechanism under which an appellant was allowed to bring along a third party who might be a staff union representative to sit in at the relevant appeal hearings. KCRC would actively discuss with staff the appeal arrangements regarding the delineation of the scope of “frontline staff”.

Employment terms and conditions

24. Mr LEE Cheuk-yan opined that to uphold the spirit of contract, in the transition to a unified set of employment terms and conditions for the staff in MergeCo, staff should be given a choice to stay in the existing employment terms and conditions or switch to the new package. CEO/MTRCL stressed the operational need for adopting a unified set of employment terms and conditions for MergeCo. He however assured members that it would conduct detailed study on the related issues. The new employment terms and conditions would be treated as a total package. It was expected that they would not differ significantly from the existing employment terms and conditions. Staff would be consulted in due course on the recommendations on the new employment terms and conditions before a final decision was made. Mr LEE remarked that as different employment terms and conditions existed in the civil service, he cast doubt on the justifications for adopting a unified set of employment terms and conditions for staff of MergeCo.

25. Mr TAM Yiu-chung considered it important that the existing employment terms and conditions of the two railway corporations would not be adversely affected by the rail merger. The 500 ex-KCR staff who were transferred from the Government to KCRC should continue to enjoy the relevant civil service benefits after the rail merger. In response, the Deputy Secretary for the Environment, Transport and Works (DS/ETW) confirmed that the Government already undertook that the eligibility of these ex-KCR staff for the relevant civil service benefits would be retained for as long as they remained continuously employed by MergeCo.

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26. Instead of pinpointing on frontline staff, Mr Andrew CHENG opined that the Administration should review the employment terms and conditions of the senior management of the two railway corporations which were on the high side. This would help achieve greater synergies and, in turn, enable a higher degree of fare reduction. In response, SETW referred members to the recommendations of the consultancy study on the remunerations of senior executives of selected statutory and other bodies conducted in 2002, and said that the remuneration packages of the senior executives of the two railway corporations had already given due regard to the recommendations and were in line with their comparable counterparts in the private sector. She further said that the corporations would review the grading structure and employment terms and conditions for the rail merger and in so doing would take Mr CHENG's views into consideration.

27. Mr LEUNG Yiu-chung highlighted the concern of staff of the two railway corporations that the formulation of a unified set of employment terms and conditions for MergeCo would mean that the existing terms and conditions of staff of either corporation might be adversely affected for the sake of consistency. He warned that this would contravene labour legislation, and called for an undertaking that this would not happen. The Administration noted his views.

Job security

- *Concerns and views about the undertaking to provide job security for frontline staff*

28. Mr LEE Cheuk-yan asked how the mismatch between the 1 300 job vacancies and the estimated 650 – 700 staff synergy would be tackled to ensure a smooth transition of the serving staff of the two railway corporations to MergeCo. He was also concerned about the staff synergies and job vacancies, and enquired whether there were sufficient clerical positions in MergeCo to absorb the affected staff. In response, HRD/MTRCL said that the two railway corporations had examined, from a macro level, the area and magnitude of synergy which could be brought about by the rail merger. Whilst the internal assessment was not intended to identify exactly which position or grade could be deleted if there were a rail merger, MergeCo would seriously consider making the best use of existing staff in filling the job vacancies. It would make every effort to resolve the mismatch situation and make appropriate re-deployment arrangements. A special team would be set up after the merger to provide support to help staff settling in their new jobs. He assured members that MTR Corporation had a good track record in carrying out staff re-deployment. It had successfully re-deployed many staff to take up positions in various disciplines/fields. The affected staff settled very well in their new jobs and some of them got promoted to higher positions. Regarding clerical positions, he advised that quite a number of new posts would be created for undertaking property management-related work.

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29. Ms LI Fung-ying was concerned about the lack of a time period specified for the assurance of job security for frontline staff after the rail merger. She called on the Administration to give an undertaking in this regard. In response, CEO/MTRCL pointed out that MTRCL would not dismiss staff without good cause. As such, serving staff of the two railway corporations could rest assured that they would not lose their jobs because of the merger proposal. With new rail and property projects in the pipeline and new opportunities to expand into the Mainland and international market, MergeCo would be a company with brilliant prospect. In his view, this would be the best guarantee that could be offered to staff.

30. Quoting the case of the establishment of the Urban Renewal Authority (URA) in 2001 to replace the Land Development Corporation (LDC), after which LDC staff were laid off by batches, Ms LI Fung-ying strongly requested that there must be an undertaking from MergeCo and Government regarding the job security of frontline staff after the rail merger. In response, SETW reiterated that under the merger package, MergeCo would provide job security, as it related to the merger, for all MTRCL and KCRC frontline staff. Moreover, the 1 300 staff vacancies would be more than adequate to absorb the estimated 650 – 700 staff synergy. As a result, it was unlikely to have any layoff because of the merger. She also echoed CEO/MTRCL's view that the bright future of MergeCo as well as the two railway corporations' tradition of treating their staff as important assets together could provide more career development opportunities to staff after the rail merger.

31. Mr Albert CHAN cast doubt on whether MergeCo would honour the undertaking that job security for all frontline staff of the two railway corporations would not be affected as it related to the merger, given that there were precedent cases where the undertakings given by the Government were not honoured by the management of URA and the Link Management Limited. He asked how the Administration could ensure that such would not happen again in the present case and how it could safeguard the interest of all staff of the two railway corporations, in particular junior staff, during the merger integration process. He also cautioned that the management should not be generous to people on the top but harsh to those at the junior level in the course of the merger integration process.

32. In response, SETW pointed out that none of the deputations which attended the meeting had complained about unfair treatment. On the contrary, one of them had shown appreciation for the job security they enjoyed after the privatization of MTRC. While every effort would be made to address concerns raised by staff, the rail merger was indeed beneficial to staff as it could create a world-class rail company with enhanced potential for expansion into the Mainland and overseas market. Due to business growth, there would be a net increase in staff vacancies available in the first three years of the rail merger after taking into account the estimated staff synergies. Therefore in overall terms, there would be more career development opportunities to staff after the rail merger. Mr Albert CHAN was not convinced that MergeCo would

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honour the undertaking in respect of job security for frontline staff. Ms Miriam LAU, however, took the view that as ensuring job security for frontline staff of both corporations at the time of the merger was a key parameter for the discussion between the two railway corporations, she believed that MergeCo would ensure that no frontline staff would lose his/her job because of the merger proposal.

33. Mr LEUNG Yiu-chung called on the Administration to ensure job security of all staff of the two railway corporations. Notwithstanding the fact that there would be 1 300 job vacancies arising from network expansion in the first three years after rail merger, he was worried that such vacancies would not be available in time to absorb the estimated 650-700 staff synergy. Should there be a time gap in between, even though the staff so affected might be re-employed later, their years of service might be unfairly affected.

34. In response, SETW said that for the 650-700 staff synergy, MergeCo would make every effort to make appropriate re-deployment arrangements and seriously consider making the best use of existing staff in filling the 1 300 job vacancies. CEO/MTRCL echoed her points, and supplemented that since the 650-700 staff synergy and the 1 300 job vacancies would both take around three years to effect, it was expected that the vacancies could mostly be filled up by the staff synergy. He also pointed out that MTRCL well recognized that its development into a world-class rail service provider owed much to the contribution of its high quality staff, MTRCL therefore would protect the interest of all staff in the rail merger, and would make every effort to make appropriate re-deployment arrangements for affected staff as it had successfully done so in the past. HRD/MTRCL added that discussions with staff on protection of vacancies for future staff re-deployment had already commenced. MTRCL had a good track record in carrying out staff re-deployment to protect the job security of staff. Similar efforts would be made to arrange for re-deployment despite any time gap between the emergence of the vacancies and that of the staff synergy to ensure the job security of frontline staff would not be adversely affected by the rail merger. In this regard, DS/ETW referred members to the paper for the joint Panel meeting with the Financial Affairs Panel on 12 April 2006, wherein it was stated that “the transfer of employment to MergeCo would be deemed for all purposes to be a single continuous employment.”

- *Concerns about the definition of “frontline staff”*

35. Mr TAM Yiu-chung highlighted the importance of maintaining job security for all staff and their morale as their performance would directly affect the operation of rail service which served more than four million passengers a day. He then referred to the deputations’ comment that the definition of the scope of “frontline staff” was not clear and specific enough, and urged the Administration to improve the definition to allay the concerns raised by the deputations.

36. In response, HRD/MTRCL emphasized that the definition had been agreed by the two railway corporations after careful consideration and lengthy discussion and its scope had already covered a wide range of staff positions. He understood that the staff unions

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hoped to extend the job security to office staff and certain managerial positions. They would decide on the detailed delineation after consultation with their staff, and individual staff would be notified in due course on whether they belonged to frontline staff.

37. Mr Albert CHENG indicated support for the rail merger but pointed out that job security should be provided for staff of the two railway corporations, particularly non-managerial staff. Given that it would be difficult to clearly define the scope of frontline staff, it would be more appropriate to classify the job positions into two categories, namely managerial and non-managerial posts. In the present exercise, job security should be provided for all non-managerial post holders. Individual staff should be notified by the management in due course on whether they could stay in their current jobs after the rail merger. He also opined that funds should be set aside under the proposed financial package for settling compensation-related cases arising from the rail merger. Consideration could also be given to setting up a voluntary exit scheme.

38. SETW took note of Mr CHENG's comments and remarked that as agreed between MTRCL and KCRC, there was a clear definition of frontline staff which meant "those full-time non-managerial staff who were employed regularly and directly in the operations and maintenance of trains, stations, buses and vehicles; infrastructure maintenance; stores operations and security operations. Non-managerial staff referred to staff below Grade MG1 in the case of MTRCL and staff below Grade 8 in the case of KCRC, who were employed on either continuous terms or contract terms for duration of two years or more".

- *Need to provide job security for staff other than frontline staff*

39. In order to retain the very valuable experience and expertise of engineering and management staff of the two railway corporations who had extensive working experience in railway planning, implementation and operation, Ms Miriam LAU urged the two corporations to ensure that they would not be affected as a result of the rail merger.

40. In response, CEO/MTRCL said that the mismatch between the staff synergy and job vacancies arising from the rail merger might be more apparent in respect of managerial positions. While senior staff in general should not expect guarantee of job security, particularly at a time when a merger deal was in place, every effort would be made by the two corporations to ensure that professional vacancies arising from future development opportunities would be filled up by existing staff affected by the rail merger. He also appealed to members to support the implementation of new railway projects such as the South Island Line so that professional engineers and other talents could be retained in Hong Kong for continued development. CEO/KCRC shared CEO/MTRCL's views, and said that the human resources heads of both corporations were already in close contact to ensure the job security of staff. He pledged to ensure

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that the concerns of staff expressed at this meeting would be addressed through regular dialogue between the management and staff.

41. In the absence of a clear undertaking regarding the job security of staff of the two railway corporations, Ir Dr Raymond HO shared Ms Miriam LAU's view that more should be done to retain the rail expertise in Hong Kong, otherwise the brain drain situation as experienced in the past would recur. He saw the need for retaining all professional and technical staff to cope with the necessary work arising from the implementation of new railway projects and other potential projects in the Mainland and overseas. He also agreed with the views of certain deputations that the rail merger should not proceed pending an agreement between staff and the two railway corporations on the staffing arrangements relating to the rail merger.

42. In response, CEO/KCRC pointed out that KCRC and MTRCL each had its own very special expertise owing to the difference of the two rail systems. He however believed that all expertise of KCRC could be retained in MergeCo and the team would grow stronger given the new opportunities in the Mainland and international market. SETW added that in recognition that Hong Kong was a small place, rail development had its limitations. The respective strength of MTRCL and KCRC could supplement each other to bring Hong Kong a stronger rail operator and hence bring about more career development opportunities for the rail professionals in the two corporations. They in turn could also help make Hong Kong much more competitive both in the China market and in the international arena.

43. Mr LEUNG Kwok-hung pointed out that as a listed company, MTRCL would only focus on profit maximization. He therefore could not see how the interest of staff could be protected during the rail merger. He understood that there had been a substantial increase in the number of contract staff due to the rail merger and there was no guarantee that their job security would be ensured after the rail merger. It could also be anticipated that to contain cost, MergeCo would be unwilling to increase staff salaries. He asked the Administration and MergeCo to give an undertaking that no staff except management would be dismissed as a result of the rail merger and that all contract staff could be retained in their current jobs after the rail merger. CEO/MTRCL pointed out that under the proposed package, relevant non-managerial staff who were employed on contract terms for a duration of two years or more were already covered in the definition of frontline staff. He however explained that since the rail merger would inevitably affect operation to a certain extent, there was difficulty in categorically undertaking that no non-managerial staff would be affected because of the merger proposal. Notwithstanding, over 80% of the non-managerial staff would fall within the scope of frontline staff as presently defined and would have their job security so secured. As for staff not so defined, every effort would be made to fill the 1 300 job vacancies with them through re-deployment arrangements to minimize the impact of the merger on them.

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The merger proposal

44. Mr Albert CHAN expressed concern that under the merger proposal, instead of effecting a merger of MTR and Kowloon-Canton Railway Systems on equal footing, KCRC was being “devoured” by MTRCL, which was a company that had been ignoring its corporate social responsibility by paying high salaries to its senior management while refusing to reduce fares despite huge profits made. This would mean that the hope for any rail fare reduction would be slim after the “acquisition”, and that public assets were being sold at a severely diminished value. Employees’ benefits and public interests might be jeopardized as a result because MTRCL had always adopted a high-handed approach towards its staff unions and had been mean to its junior staff while its senior management enjoyed high pays. As such, while the rail merger would open up new opportunities for MTRCL to expand into the Mainland and international market and hence lead to pay rise for its management, he could not see how Hong Kong would benefit from the merger exercise. In response, SETW urged Mr CHAN to view the rail merger with an open mind, and pointed out that the public and staff of the two railway corporations would benefit from the anticipated business growth of MergeCo.

45. Both Ir Dr Raymond HO and Mr LEUNG Kwok-hung viewed the rail merger as KCRC being taken over by MTRCL. In Mr LEUNG’s view, this would cause concern because as a listed company MTRCL was merely focusing on profit maximization and staff might be laid off as a result. The rail merger would therefore mean that KCRC’s assets which were owned by Hong Kong people would be transferred to a listed company to benefit its shareholders instead of the general public. He therefore proposed that to facilitate monitoring, KCRC should take over MTRCL’s operation instead. He also called upon staff of the two railway corporations to be aware of the above implications of the rail merger as he observed.

46. Summing up, the Chairman called upon the two railway corporations to conduct effective talks with their staff on staffing arrangements related to the rail merger to address their concerns. The two railway corporations agreed to consider the request of Mr LEE Cheuk-yan and the Chairman to provide to their staff unions the report of the external human resources consultant appointed by them on the assessment of the area and magnitude of synergy which could be brought about by the merger. Mr LEE also requested the Administration and the two railway corporations to provide a written response to the various views and proposals put forward by the staff unions at the meeting to facilitate follow-up.

Admin

Admin

(Post-meeting note: The Administration’s response to members’ questions on staff-related issues raised at this meeting was issued to members vide LC Paper No. CB(1)1541/05-06(02) on 20 and 22 May 2006.)

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V Staffing proposal on possible merger of MTR Corporation Limited and Kowloon-Canton Railway Corporation in the Environment, Transport and Works Bureau

(LC Paper No. CB(1)1347/05-06(04) - Information paper provided by the Administration)

47. DS/ETW briefed members on the proposal to retain two supernumerary posts of one Administrative Officer Staff Grade B (D3) and one Administrative Officer Staff Grade C (D2) in the Environment, Transport and Works Bureau for 12 months with effect from 1 July 2006 up to 30 June 2007.

48. In reply to Mr WONG Kwok-hing, DS/ETW confirmed that the above two supernumerary posts would be proposed for deletion after completion of the rail merger exercise.

49. Ms Miriam LAU expressed support for the staffing proposal in recognition that an understanding had already been reached between the Government and MTRCL on the structure and terms for the rail merger. She agreed that there was a need to retain the two posts beyond 30 June 2006 for the subsequent preparation and implementation of the rail merger.

50. Noting that there were no negative views from members, the Chairman indicated the Panel's support for the staffing proposal.

VI Fares for outlying islands ferry services in Hong Kong

(LC Paper No. CB(1)1347/05-06(05) - Information paper provided by the Administration)

LC Paper No. CB(1)1347/05-06(06) - Submission from 三島聯盟

LC Paper No. CB(1)1347/05-06(07) - Submission from Hon LEUNG Yiu-chung

LC Paper No. CB(1)1347/05-06(08) - Submission from Islands District Council)

51. The Chairman reported that the Administration had informed the Panel that a person had filed an application to the Court for judicial review (JR) against the Commissioner for Transport's decision to approve the fare increase of New World First Ferry Services Limited's (NWFF) "Central - Cheung Chau" ferry service in February 2006. The Administration therefore considered it not appropriate for the Government to discuss NWFF's fare increase and related issues at the meeting, as such discussion might have a tendency to interfere with the due course of justice in relation to the impending hearing of the JR application. Members noted that the Chairman had subsequently sought the advice of the legal adviser to the Panel, who advised that there did not appear to be any legal or procedural restrictions that would prevent the Panel from considering policy issues relevant to this agenda item as a result of the application for leave to apply

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for JR. In view of the above concern raised by the Administration however, the Chairman reminded members that Rule 41(2) of the Rules of Procedure provided that “[r]eference shall not be made to a case pending in a court of law in such a way as, in the opinion of the President or Chairman, might prejudice that case”.

Measures to assist ferry operation

52. Pointing out that ferry service was the only means of public transport for residents of the outlying islands, Mrs Selina CHOW stressed the importance of keeping ferry fares affordable. On the other hand, she also noted that the ferry operators concerned were already operating at a loss. She therefore urged the Transport Department (TD) to assist the operators to generate non-fare box revenue to cross-subsidize ferry operation. In recognition that TD might face difficulties in permitting operators to carry out a number of commercial activities at the piers leased to them by the Government, she enquired about the difficulties encountered by TD and how such difficulties could be resolved.

53. In response, the Deputy Commissioner for Transport/Transport Services and Management (DC for T) reported that in an attempt to obviate fare increase, the Administration had already been helping the operators to increase non-fare box revenue by sub-letting part(s) of pier premises for commercial concessions like retail shops, by setting up advertising panels within and on roof top of pier premises, etc. Whilst the relevant Government departments would expedite the processing of such applications, they had got to abide by the relevant rules. For example, whilst ferry operators might prefer to erect large-size advertising panels on roof top of pier premises, the relevant authorities had to consider the applications, taking into account the visual impact caused to nearby-residents.

54. Citing a recent case whereby the application from a ferry operator to erect a LCD display panel at a pier was rejected by the Administration, Mrs Selina CHOW remarked that as commercial activities at the piers were important source of non-fare box revenue to ferry operators, she urged the Administration to apply some flexibility in assessing applications of this kind from ferry operators. Mr LEE Cheuk-yan shared her view, and commented that the height restrictions of advertising panels on roof top of pier premises were too stringent.

55. Mr WONG Kwok-hing commented that more should be done by the Administration to improve the financial viability of ferry service. He also enquired why cultural activities were launched in the urban area rather than outlying islands. DC for T clarified that the Culture and Heritage Celebrations at Central Piers were intended to promote the upcoming events with cultural heritage characteristics at the outlying islands. With wider publicity, more visitors would be attracted to visit the outlying islands.

56. Mr WONG Kwok-hing opined that the operators of outlying ferry services should be allowed a sufficiently long operation period for their investment to pay off so as to

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obviate the need for fare increase. In response, DC for T explained that under the existing legislation, a ferry service licence (“FSL”) might be granted for an initial period not exceeding three years. The Commissioner for Transport might at the request of the licensee, during any period while the FSL was in force, extend the licence for a further period not exceeding three years at any one time. The period of a FSL (together with all extensions) should not exceed an aggregate period of 10 years. FSLs for NWFF and Hong Kong Kowloon Ferry Limited. (HKKF) could at most be extended to 2009, whereupon the licences would have to be put out for re-tendering. Mr WONG said the above arrangements were too rigid, necessitating NWFF to increase the ferry fares to ensure recovery of its investment before the expiry of its FSL in 2009. In reply, DC for T pointed out that the two operators were aware that the period of a FSL (together with all extensions) should not exceed an aggregate period of 10 years when they submitted tender bids for the services some years ago. They could bid for the FSLs again during the next tendering exercise.

Level of fares

57. Mr WONG Kwok-hing urged NWFF to provide concessionary fares to regular travellers. In response, Mr John HUI, Director and General Manager of NWFF, pointed out that NWFF was willing to do so where permissible. In fact, regular travellers with monthly tickets were already enjoying a fare discount of as high as 30%. Whether further discount could be offered to passengers would depend very much on how much non-fare revenue could be generated from other commercial activities at the piers.

58. Pointing out that residents of the outlying islands had no other choice of public transport, Mr WONG Kwok-hing expressed dissatisfaction that the Administration had failed to monitor and control ferry fare increases to ensure that ferry fares were maintained at affordable level. In response, DC for T advised that the Administration would review the situation and consult local residents on their views in the coming tender exercises, in particular on the fare charges vis-à-vis service quality.

59. Mr LEUNG Yiu-chung pointed out that the operation of outlying island ferry services was facing a vicious cycle. As the market share of passenger ferry services had declined considerably over the years, ferry operators might be required to increase their fares, and this, in turn, led to further reduction in patronage. Given that the population on the outlying islands had already dwindled, there would be a risk of further decline if the problem of high ferry fares was not resolved. He therefore urged the Government to shoulder the responsibility for resolving the problem, and map out more effective long-term solutions to relieve the ferry operators’ pressure for fare increase in the interest of the general public who relied on travel by ferry. In response, DC for T agreed that fare increase was not the solution to the operational difficulties facing the ferry operators, and pointed out that this explained why the Administration was helping them to reduce costs and boost patronage.

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60. Mr LEUNG Yiu-chung called upon the operators to remove the higher holiday fares for outlying island ferry services, which in his view were too high to attract visitors and were unfair to local residents who had to use the services during weekends. In response, DC for T explained that the charging of higher fares on holidays was to enable the operators to recover the operating cost on weekdays so that a lower weekday fare could be maintained. As such, the cancellation or reduction of holiday fares would not bring about any real benefits to the local residents. Mr LEUNG was unconvinced, and urged the operators to put to trial his proposal which in his view would attract more passengers, and, in turn, benefit the operators. In response, DC for T advised that previous initiatives made in this regard were only met with mild response. Notwithstanding, the operators had recently introduced concessionary group tickets for holiday travellers. The effect had yet to be seen but the initial response had been good.

Possible long-term solution

61. Mr LEE Cheuk-yan stressed the need for a long-term solution to the problem of high fares for outlying island ferry services as it not only affected local residents but also local economy as high fares would discourage people from visiting the islands. He however considered the proposed measures to facilitate the generation of non-fare box revenue to obviate fare increase ineffective. It was also impracticable for the Administration to impose conditions in the ferry licence to restrict operators from increasing fares as operators might sometimes really face with financial difficulties. As such, he opined that the long-term solution to the problem of high ferry fares might be for Government to operate the ferry services instead and contract out daily operation to the operators. In this way, the Administration would be in complete control of the fares to ensure they were affordable.

62. In response, DC for T emphasized that it was the Government's established policy that public transport services should be operated by the private sector or by public corporations without direct Government subsidy. As such, it would aim to provide indirect assistance to help reduce the ferry operators' operating cost instead. In this regard, the Government had already taken over from ferry operators the responsibility of maintaining the pier structures and pier facilities to alleviate the financial burden on them. The Administration would also encourage the operators to enhance their flexibility and efficiency so as to minimize costs and maximize incomes. As elaborated in the Administration's paper, many measures in this regard had already been introduced.

63. Mr LEE Cheuk-yan was not convinced because the measures referred to had all failed to bear fruit. He considered the above stance of the Government unsound and unrealistic. In his view, to effectively tackle the long-standing problem of high fares for outlying island ferry services, the Administration had no choice but operate the services itself unless it could forbid the operators from increasing fares. He therefore urged the Administration to seriously consider his proposal and make efforts to work out practical long-term solutions to the problem.

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Other views and concerns

64. Mr LEE Cheuk-yan enquired whether, as reported in the press, HKKF intended to increase the ferry fares for Lamma Island. In reply, DC for T confirmed that TD had not received any fare adjustment application from HKKF. Mr Nelson NG, Director and General Manager of HKKF, advised that while there was pressure for fare increase, HKKF's present thinking was to explore other income sources to cover operational deficits as far as possible. However, there were many difficulties in making the efforts and it was hoped that HKKF could be allowed more time to sort out the difficulties. At the present moment, HKKF had no plan to increase the fares of Lamma Island. In this regard, Mr LEUNG Yiu-chung urged HKKF not to increase the fares in future because, according to a relevant survey, residents of Lamma Island found the present ferry fare level barely acceptable.

65. In response to the Chairman, Mr Nelson NG of HKKF clarified that incomes from contract-hiring of HKKF's vessels by travel agents for operation of a harbour sightseeing tour service in the evenings were non-fare box revenue generated for the purpose of cross-subsidising the operation of ferry services for the Lamma Island.

VII Any other business

66. There being no other business, the meeting ended at 1:15 pm.