

立法會
Legislative Council

LC Paper No. CB(2)2636/06-07
(These minutes have been seen by
the Administration)

Ref : CB2/PL/MP/1

Panel on Manpower

Minutes of meeting
held on Thursday, 5 July 2007, at 4:30 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 LEE Cheuk-yan
Hon CHAN Yuen-han, SBS, JP
Hon LEUNG Yiu-chung
Hon Jasper TSANG Yok-sing, GBS, JP
Hon LI Fung-ying, BBS, JP
Hon Tommy CHEUNG Yu-yan, SBS, JP
Hon Frederick FUNG Kin-kee, SBS, JP
Hon WONG Kwok-hing, MH
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
- Member absent** : Hon Andrew CHENG Kar-foo
- Public Officers attending** : Item I
Mr CHEUNG Kin-chung, Matthew, GBS, JP
Secretary for Labour and Welfare

Mr TANG Kwok-wai, Paul, JP
Permanent Secretary for Labour and Welfare

Mrs TSE LING Kit-ching, Cherry, JP
Commissioner for Labour

Mr FONG Ngai
Assistant Commissioner for Labour (Policy Support and
Strategic Planning)

Miss CHANG Kar-wai, Carrie
Senior Administrative Officer (Policy Support)
Labour Department

Item II

Mr CHEUNG Kin-chung, Matthew, GBS, JP
Secretary for Labour and Welfare

Mr TANG Kwok-wai, Paul, JP
Permanent Secretary for Labour and Welfare

Mrs TSE LING Kit-ching, Cherry, JP
Commissioner for Labour

Mr WONG Kwok-lun, Alan, JP
Assistant Commissioner for Labour (Labour Relations)

Mr CHAN Yun-cheung, JP
Principal Assistant Secretary for Development (Works) 3

Mrs CHENG WAN Irene
Chief Architect (Procurement)
Housing Department

Item III

Mr CHEUNG Kin-chung, Matthew, GBS, JP
Secretary for Labour and Welfare

Mr TANG Kwok-wai, Paul, JP
Permanent Secretary for Labour and Welfare

Mrs TSE LING Kit-ching, Cherry, JP
Commissioner for Labour

Mr NG Kwok-keung, Byron
Assistant Commissioner for Labour (Employment
Services)

Mr HO Kam-biu, Raymond
Senior Labour Officer (Youth Employment)
Labour Department

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

Staff in attendance : Miss Josephine SO
Council Secretary (2) 1

Miss Helen DIN
Legislative Assistant (2) 1

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I. Progress of Wage Protection Movement and the proposal for introduction of legislation for a minimum wage and related issues
(LC Paper Nos. CB(2)2355/06-07(01) & CB(2)2396/06-07(01))

Secretary for Labour and Welfare (SLW) briefed members on the progress of the Wage Protection Movement for cleaning workers and security guards (WPM), as set out in the Administration's paper. He highlighted the following points -

- (a) as at end-June 2007, 955 enterprises/organisations had pledged their support for WPM, and a total of some 29 000 cleaning workers and security guards were being directly employed by these entities or by their cleansing and guarding services contractors and sub-contractors. Together with the 30 000 cleaning workers and security guards who had benefited under the wage requirement applicable to service contractors of government departments, public bodies and other related bodies, it was estimated that a total of some 59 000 such workers out of the 187 000-plus cleaning workers and security guards enjoyed wage protection;
- (b) the wage levels of cleaning workers and security guards were generally on a rising trend, as compared with the figures of the last quarter;
- (c) the Administration would continue to promote WPM vigorously through various means in an effort to secure the support of different sectors, especially employers and property owners, in the community. New publicity measures targeting property owners and owners' corporations (OCs) would be launched; and

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- (d) the Administration was prepared to initiate the preparatory work for introducing a statutory minimum wage for the cleansing and guarding services sectors. The preparatory work would be kept in pace with the overall review to be conducted in October 2008. If the overall review found that WPM failed to yield satisfactory results, the Government would arrange to introduce legislation, as the Chief Executive (CE) had pledged.
2. Regarding the mid-term review to be conducted in October 2007, Permanent Secretary for Labour and Welfare (PSLW) said that the Labour Advisory Board (LAB) had agreed that for a more comprehensive assessment of the progress of WPM, six different sets of data, as stated in paragraph 12 of the Administration's paper, had to be collected. The Administration hoped that LAB would complete its deliberations in October 2007, and would report the deliberations of LAB to the Panel in due course.
3. Mr WONG Kwok-hing expressed concern that if the mid-term review was completed in October 2007, there would be no mention of the review results and the proposal to legislate for a minimum wage in CE's 2007-2008 Policy Address to be delivered in early October 2007. He asked whether LAB could complete the review at an earlier date so that the findings could be readily available before CE delivered his 2007-2008 Policy Address.
4. SLW responded that the Administration had provided a clear timetable and work plan for reviewing the overall effectiveness of WPM in that it would conduct a mid-term review in October 2007 to gauge the progress of WPM and an overall review in October 2008 to evaluate the effectiveness of WPM. SLW reiterated that CE had made it clear in his 2006-2007 Policy Address that the Administration would review the overall effectiveness of WPM two years after its implementation, and would set out to prepare for the introduction of legislation for a minimum wage in the cleansing and guarding services sectors if WPM failed to yield satisfactory results.
5. Ms LI Fung-ying enquired how the Administration would evaluate the overall effectiveness of WPM and what performance indicators would be adopted respectively for the mid-term and the overall review. She hoped that the proposed criteria and mechanism could be made available for consideration by the Panel as soon as possible.
6. Mr LEUNG Yiu-chung considered it more appropriate for the purpose of the mid-term review set to evaluate the effectiveness of WPM to ascertain whether legislation should be introduced. He said that the Administration should make a decision now to ensure that the assessment criteria and mechanism were readily available before LAB started the review and examined the various sets of data collected for the exercise, so that it could not manipulate the results and establish a lower threshold for the assessment. Mr WONG Kwok-hing echoed his view.

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7. SLW and PSLW said that -
- (a) the Administration had stated from the outset that the purpose of the mid-term review was to gauge the progress of WPM;
 - (b) the data to be collected and the findings of the mid-term review would provide an objective basis for LAB to determine the performance indicators for assessing the effectiveness of WPM;
 - (c) according to the work plan of the Administration, it would initiate the preparatory work for introducing a statutory minimum wage for the cleansing and guarding services sectors if WPM failed to yield satisfactory results. The Labour Department (LD) would continue its endeavours to promote WPM by stepped-up publicity so as to secure the support of different sectors.

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8. Mr LEUNG Yiu-chung requested that the following data be collected for the mid-term review -

- (a) the average monthly salaries of cleaning workers and security guards; and
- (b) the number of workers who were employed by entities participating in WPM and receiving wages not lower than the relevant market averages in the market.

9. Miss CHAN Yuen-han urged the Administration not to procrastinate the provision of criteria for assessing the overall effectiveness of WPM. She recalled that the former Secretary for Economic Development and Labour had once said that the Administration would introduce legislation on minimum wage if WPM failed to achieve a 90% participation rate.

10. SLW responded that whilst the Administration was prepared to take forward the preparatory work for a statutory minimum wage for the cleansing and guarding services sectors ahead of the overall review of WPM to be conducted in October 2008, sufficient time had to be allowed for employers to join WPM. As WPM was an exercise involving a large number of employers, entities and stakeholders, time would be required for the message to filter through and the culture change to materialise.

11. Mr LEUNG Kwok-hung said that to his knowledge, many cleaning workers and security guards were working exceedingly long hours at wages barely sufficient to maintain a living. He held the view that putting in place legislation for a minimum wage was the only effective measure to safeguard workers against unfair treatment and exploitation. The Administration should therefore start drafting a bill on minimum wage without further delay.

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12. Referring to a submission from the Hong Kong Buildings Management and Security Workers General Union, Mr LEE Cheuk-yan sought clarification on whether any enterprises/organisations participating in WPM were not offering their cleaning workers and security guards wages not lower than the relevant average market rates. He requested the Administration to inquire into the cases cited in the submission and suspected non-compliance with the wage requirement under WPM. Mr LEE also asked about the number of workers in the private sectors benefiting from WPM since its launch in late October 2006. He considered that if more than 60% of the working population supported the introduction of statutory minimum wage for all trades and occupations across-the-board, the Administration should address the community aspiration without delay.

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13. PSWL responded that LD had already inquired into the cases referred to in the submission. The employers involved had pledged support for WPM and planned to increase the wage of their workers upon the expiry of their existing contracts. The Chairman requested that a report be provided to the Panel after the meeting, in which details of the cases (e.g. the name/type of entities involved, the number of workers affected, and the expiry date of these workers' existing contracts etc.) should be included.

14. Mr Frederick FUNG said that WPM was doomed to fail due to the following reasons -

- (a) although the Administration had put in much effort in promoting WPM in the past few months, there seemed to be little improvement to the number of entities participating in the scheme; and
- (b) it was difficult to enlist the support of property management companies, given that they had to control the staff cost, lest their chance of success in bidding for cleansing or guarding service contracts awarded by OCs would be affected, since the latter would assess the qualitative as well as price aspects of all bids received from different service providers before awarding a service contract.

Mr FUNG said that if WPM and legislation served the same purpose to provide wage protection for the low-income group, it would be a waste of time for the Administration to launch WPM. In his view, the proposal to legislate for a minimum wage should be pursued without further delay.

15. Referring to the speech made by CE during the Question and Answer Session of the Legislative Council on 5 July 2007, Mr LEE Cheuk-yan and Miss CHAN Yuen-han hoped that government officials would follow the pledge of CE to reach out to the community and be more active in communicating with the public to understand their views on the issue of whether a statutory minimum wage should be introduced in Hong Kong.

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16. SLW said that putting in place legislation for a minimum wage before WPM was fully tested might not be conducive to social harmony. He reiterated that the Administration had no intention of procrastinating and was sincere in facilitating employees to enjoy wage protection. The fact that the Administration had provided a clear timetable for reviewing the effectiveness of WPM and pledged to prepare for the introduction of legislation for a minimum wage in the cleansing and guarding services sectors was a testimony to its sincerity. SLW further said that so far, the response from employers was rather encouraging as a considerable number of employers had agreed to increase wages of their vacancies offered through LD after persuasion. The number of vacancies which immediately benefited from WPM came to about 2 300.

17. Mr WONG Kwok-hing shared the view that the Administration should provide members with the criteria for assessing the effectiveness of WPM as soon as possible, and suggested that a special meeting be convened in August 2007 to discuss the issue.

18. SLW said that in determining the criteria for assessing the mid-term and the overall reviews, careful consideration should be given so as to make them meaningful. The principles of objectivity and reasonableness should be observed. SLW stressed that the Administration had already presented a pragmatic way to take the issue forward, by initiating the preparatory work for introducing a statutory minimum wage for the cleansing and guarding services sectors before the overall review of WPM to be conducted in October 2008.

19. Mr LEE Cheuk-yan sought clarification on the purpose and expected results of the mid-term review, and whether different criteria were to be used for the mid-term and the overall reviews. SLW reiterated that the mid-term review in October 2007 would serve to gauge the progress of WPM, whilst the overall review in October 2008 would evaluate the effectiveness of WPM. PSLW supplemented that difficulties encountered during the implementation of WPM would be taken into account in the mid-term review for improvements in the further implementation of the movement. LD was working with the Census and Statistics Department to collect different sets of data required for the exercise.

20. Mr WONG Kwok-hing moved the following motion -

"促請政府在今年八月底前向本會提交文件，載明檢討工資保障運動的清晰標準，以供特別會議討論。"

(Translation)

"That the Government is urged to provide this Panel before the end of August this year with a paper setting out clearly the criteria for assessing

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the Wage Protection Movement for discussion by the Panel at a special meeting."

21. The Chairman put the motion to vote. Seven members voted in favour of the motion, and no member voted against it. The Chairman declared that the motion was carried.

II. Measures to promote harmonious labour relations in the construction industry

(LC Paper No. CB(2)2355/06-07(02))

22. SLW briefed members on the measures adopted by the Administration to enhance harmonious labour relations in the construction industry, as detailed in the Administration's paper.

23. Miss CHAN Yuen-han and Mr WONG Kwok-hing said that although the number of labour disputes and claims handled in the first five months of 2007 was smaller than the number in the corresponding period of 2006, there was room for improvement. Miss CHAN was concerned about the problem of arrears of wages in the construction industry particularly in the private sector, and enquired whether the improvement measures implemented by the Environment, Transport and Works Bureau and Housing Authority from 1 May 2006 onwards to monitor wage payment to workers employed under public works and public housing projects could be extended to the private sector. Miss CHAN asked about the measures to be adopted by the Administration to forestall disputes arising out of building rehabilitation works.

24. Assistant Commissioner for Labour (Labour Relations) (AC(LR)) responded that -

(a) Labour Inspectors (LIs) of LD had continued their vigorous workplace inspection programmes to clamp down on employers defaulting on wage payments. In 2006, two special campaigns targeted at construction sites to detect wage offences were conducted, with a total of 72 sites visited. In the first five months of 2007, LIs had already inspected 57 construction sites to detect wage offences. On the publicity front, LD had also stepped up efforts to educate construction workers on their rights and the need to report wage defaults at an early stage. Employees were also reminded of their right to lodge claims and the importance of serving as prosecution witnesses; and

(b) as building rehabilitation works would be managed by OCs rather than professional project managers, it would not be realistic to expect the same expertise to be generally available where tender management and contract management were concerned. This was where LD saw the need for proactive monitoring. With the

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assistance of the Urban Renewal Authority (URA) and the Housing Society (HS), LD would shortly distribute a tailor-made leaflet which highlighted the salient points of effective tender management and contract management with emphasis on dispute prevention, and aimed to arouse the awareness of OCs at the earliest possible moment when they planned to rehabilitate their buildings.

25. Responding to Miss CHAN Yuen-han's further enquiry, AC(LR) said that LD had been maintaining close co-ordination with URA and HS to gather information on buildings undergoing or would undergo rehabilitation works under the financial assistance of URA. In addition, LD had set up an early warning system in collaboration with trade unions in the construction industry to gather intelligence on non-payment of wages. Trade unions would inform LD whenever they were aware of any labour disputes so that LD could promptly provide conciliation service to help resolve the disputes at an early stage.

26. Ms LI Fung-ying held the view that the Administration should consider more severe measures to combat wage offences by contractors/subcontractors. In respect of the requirement that wages to workers should be paid on time through auto-pay bank account, Ms LI considered that further safeguards should be put in place to ensure that auto-payment through designated bank account would be arranged also for workers living outside Hong Kong. Ms LI expressed reservations about the requirement of employing on-site Labour Relations Officers (LROs) by principal contractors, as the arrangement might lead to a conflict of interests when LROs discharged their duties.

27. Principal Assistant Secretary for Development (Works) 3 (PASD(W)3) said that -

- (a) given the difficulty in setting up auto-pay accounts for workers living outside Hong Kong, they would be paid by personal cheques. Implementation of this measure would be closely monitored; and
- (b) to improve workers' protection, the Administration required principal contractors to be responsible for any arrears of wages at their construction sites. In cases of wage default, the Government had the right to pay directly to the workers who were owed wages after the Labour Tribunal had awarded in favour of workers and to recover the payment so made from the contract fees due to the principal contractor under the contract. In assisting the principal contractors in monitoring payment of wages by subcontractors, LROs checked employment records, received complaints and enquiries about wage payment from workers, and reported irregularities to the Engineer/Architect supervising the contract. So far, this arrangement had worked well.

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Admin 28. Ms LI Fung-ying requested the Administration to provide the Panel with the number of labour disputes/claims involving arrears of wages which were reported by LROs, and information on whether LROs had been unfairly treated by the principal contractors for having reported the cases to LD.

29. Mr WONG Kwok-hing pointed out that many construction workers were forced to become self-employed. He was concerned whether the Administration, in devising the measures to manage subcontracting, had taken into consideration the situation of false self-employment.

Admin 30. AC(LR) responded that in situation where an employer was suspected of having forced his/her employees to become self-employed as a means to evade his/her statutory responsibilities, the court would consider and decide whether an employer-employee relationship existed based on the facts of the case. LD had published a leaflet providing the definition of self-employed persons. The Administration would provide members with the said leaflet after the meeting.

31. In respect of the workplace inspection made to 57 construction sites in the first five months of 2007, Mr LEE Cheuk-yan asked about the number of prosecution instituted and conviction secured against employers for arrears of wages. AC(LR) responded that investigation into suspected cases was still underway. Prosecution would be taken when there was sufficient evidence of contravention of the relevant legislation. He remarked that apart from detecting incidents of wage offences, the vigorous site inspections carried out by LD had also served another important purpose of generating a certain level of deterrent effect on contractors over their responsibility to make timely wage payment to their employees.

32. Regarding the employment of LROs for public works and public housing projects, Mr LEE Cheuk-yan held the view that the Government should employ LROs direct. PASD(W)3 said that LROs would be employed either by the consultant or by the principal contractor, depending on the nature of the projects concerned. LROs were required to station on site to monitor payment of wages, check employment records, receive complaints and enquiries about wage payment from workers, and report irregularities to the Engineer/Architect supervising the contract. LROs would be accountable to the relevant Engineer/Architect, although they were employed through the construction contracts.

33. To reduce the chance of delayed payment or non-payment of wages by subcontractors in private works contracts, Mr Frederick FUNG enquired about the possibility of principal contractors making wage payments direct to their subcontractors' workers.

34. PASD(W)3 said that such arrangement would have impact on the written employment contracts entered between the workers and the

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subcontractors. While special provisions could be made to the subcontracts to facilitate the deduction of contract fees due to the subcontractors for wage payments by the principal contractors, the issue could be very complicated. SLW remarked that the Administration was aware that some large property developers in Hong Kong had adopted this measure as a good management practice. The Administration would explore the viability of the proposed arrangement with other large property developers of Hong Kong.

35. Miss CHAN Yuen-han hoped that the Administration would map out a policy to require principal contractors to make wage payments direct to their subcontractors' workers, and revert to the Panel in the new legislative session.

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III. Latest progress and enhanced promotional efforts of the Labour Department's youth employment and training programmes
(LC Paper No. CB(2)2355/06-07(03))

36. SLW referred members to the Administration's paper which set out the latest progress of the Youth Pre-employment Training Programme (YPTP) and the Youth Work Experience and Training Scheme (YWETS) offered by LD. SLW said that the general employment situation of youths had been improving and the latest unemployment rate for youth in the age group of 15 to 24 stood at 7.8%.

37. Referring to paragraph 7 of the Administration's paper, Mr WONG Kwok-hing sought clarification on the respective number of youngsters who were placed into training vacancies under YWETS and found employment in the open market upon completion of the training. He requested that the information should be provided by programme year and presented in tabular form. Mr WONG said that to his knowledge, some schools and business enterprises (e.g. the Mass Transit Railway) had lined up recently to provide no-pay on-the-job training to students. He questioned whether the Administration was aware of such malpractice. He further asked whether training allowance was provided for trainees enrolled under YPTP and YWETS.

38. In response, SLW and Assistant Commissioner for Labour (Employment Services) (AC(ES)) made the following points –

- (a) since the launching of YWETS in 2002, more than 33 300 young people had been successfully placed into training vacancies. In addition, some 16 800 trainees were able to secure jobs in the open market with the assistance of their case managers. The total number of young people benefited from the scheme was about 50 100. For members' easy reference, the breakdown of the statistics would be provided after the meeting;
- (b) YWETS provided trainees with work experience through on-the-job training for six to 12 months, during which they could earn a

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monthly salary and would be coached by mentors appointed by their employers. To encourage employers participating in the scheme, employers would receive a monthly training subsidy of HK\$2,000 for each trainee engaged for six to 12 months, depending on the nature and duration of training. During the training period, trainees were encouraged to enroll in relevant off-the-job vocational training courses. They could claim reimbursement of course and examination fees for up to HK\$4,000 under the scheme, if they had successfully passed the examinations or achieved at least a 90% attendance rate at the vocational courses;

- (c) YPTP provided youths aged 15 to 19 with a comprehensive range of employment-related training and workplace attachment. After attending the modular training courses on leadership, interpersonal, computer and job-specific skills, trainees might participate in workplace attachment for one month, during which they would be paid an attachment allowance of \$2,000. Starting from 2007-2008, the Government would grant travelling subsidies at a rate of \$30 per day to YPTP trainees for attending the modular training courses and to YWETS trainees for attending the Induction Course, on the condition that they completed the training courses with at least 80% attendance rate; and

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- (d) regarding the complaint against the Mass Transit Railway (MTR), LD would touch base with MTR and revert to the Panel on information obtained.

39. Miss CHAN Yuen-han expressed reservations about the effectiveness of YPTP and YWETS in tackling the problem of youth unemployment. She said that the Administration should apply a new way of thinking in planning of measures to reduce the youth unemployment rate. It should also study overseas experience and consider pushing through pioneer and innovative initiatives to create jobs for the young people.

40. SLW stressed that the Administration was determined to resolve the problem. This was evidenced by the fact that the content of YPTP and YWETS had been updated and enhanced regularly with regard to the changing market needs and economic development. SLW said that with the establishment of the Labour and Welfare Bureau (LWB) and the grouping of related policy areas under its purview, it would be more effective to achieve a synergy effect among the departments/offices concerned.

41. Mr LEE Cheuk-yan shared the view of Miss CHAN Yuen-han. He said that the six to 12 months' training was not useful in assisting the young people in acquiring the requisite skills to get a permanent job. The Administration

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should be more forward looking and draw up long-term manpower training plans for the youth towards the objective of shaping their career path.

42. SLW said that the Administration was working towards the direction of providing long-term manpower training for the youth. To this end, LD would set up two Youth Employment Resource Centres, one in the New Territories and one in Kowloon, to provide one-stop advisory and support services on employment and self-employment to youth between the age of 15 and 29. The Administration recognised the need to help the unemployed to move from relying on welfare to self-reliance. LWB would map out strategies and measures to increase job opportunities.

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43. Mr LEE Cheuk-yan requested the Administration to provide details on -

- (a) the total number of trainees participating in the two programmes;
- (b) the percentage of trainees who had completed the training; and
- (c) the percentages of trainees who were able to secure jobs in the open market after completion of the training.

AC(ES) undertook to provide the statistics after the meeting.

44. Ms LI Fung-ying noted with concern that since the implementation of YPTP and YWETS, the Apprenticeship Scheme had become less popular. She pointed out that employers participating in the Apprenticeship Scheme were not provided with any subsidy. Given the possible impact of YPTP and YWETS on the Apprenticeship Scheme, she asked whether there was a decrease in the demand for apprenticeship training. Ms LI also asked about the number of youth training and employment vacancies offered by offshore companies, and the role of LD in monitoring the employers in respect of their provision of on-the-job training.

45. SLW and AC(ES) said that -

- (a) the Administration had been working closely with the Vocational Training Council (VTC) to improve the Apprenticeship Scheme and encourage more employers to join the Scheme. VTC would consider inclusion of new designated trades, depending on the acceptance of employers and the need for apprentices in the relevant trades;
- (b) for the 2007-2008 Programme, YWETS would continue to offer diversified tailor-made projects in collaboration with training bodies. For example, the Pilot Project for Tradesman Trainees expecting to benefit 750 graduates of VTC would be a major one of them;

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- (c) given the practical difficulties in monitoring employment wholly outside Hong Kong, no training vacancies of such nature were provided under YWETS for the time being; and
- (d) on the question of monitoring, LD would, among others, examine the training proposals submitted by employers, job nature of the training vacancies and their terms of employment to ensure that trainees participating in on-the-job training were not exploited by being required to work long hours or were given very low wages. Follow-up inspection would be made as appropriate.

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46. Ms LI Fung-ying requested the Administration to provide information on different training schemes/projects available for youths and the respective number of trainees/apprentices participating in these schemes. The Administration agreed.

IV. Any other business

47. There being no other business, the meeting ended at 6:35 pm.

Council Business Division 2
Legislative Council Secretariat
27 August 2007