

立法會
Legislative Council

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the Administration)

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LegCo Panel on Manpower

**Subcommittee on
Employer and Employee Relations**

**Minutes of meeting
held on Tuesday, 11 January 2000 at 10:45 am
in Conference Room B of the Legislative Council Building**

Members present : Hon LAU Chin-shek, JP (Chairman)
Hon LEE Cheuk-yan
Hon LEE Kai-ming, SBS, JP
Hon CHAN Kwok-keung
Hon CHAN Yuen-han
Hon LEUNG Yiu-chung

Member attending : Hon YEUNG Yiu-chung

Members absent : Hon Cyd HO Sau-lan
Hon Ronald ARCULLI, JP
Hon Andrew CHENG Kar-foo

Public Officers attending : Mrs DO PANG Wai-yee
Acting Principal Assistant Secretary for
Education and Manpower

Mr TSANG Kin-woo, JP
Assistant Commissioner for Labour (Labour Relations)

Mrs Clare SIU
Chief Labour Officer (Labour Relations)

Mrs Jenny CHAN
Chief Labour Officer (Trade Unions and Wage Security)

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

Staff in attendance : Mr Raymond LAM
Senior Assistant Secretary (2)5

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I. Meeting with the Administration

(LC Paper Nos. CB(2) 558/99-00(02) and CB(2)769/99-00(01))

Collective bargaining

Mr LEE Cheuk-yan said that the Committee on Freedom of Association (the Committee) of the International Labour Organization (ILO) had expressed in its 318th report deep regret about the Administration's lack of action in the promotion of collective bargaining through legislative means. He asked whether the Administration would establish objective mechanism for determining the representative status of trade unions in collective bargaining. He added that this was also required under the Basic Law. He considered that the establishment of an objective mechanism for collective bargaining would benefit both employers and employees. If the Administration kept on disregarding the recommendations of experts in ILO, it would put China as the sovereign power of Hong Kong in an embarrassed position. Hong Kong should then cease to be a signatory of International Labour Conventions (ILCs).

2. Assistant Commissioner for Labour (Labour Relations) (AC for L) said that the Administration had just received the Committee's 318th report in the previous month. It was still examining the report, after which the Administration would provide its response to the Committee. He said that two motions for the introduction of legislation on compulsory collective bargaining had been voted down at two previous meetings of the Legislative Council (LegCo). This reflected the lack of a consensus in LegCo on the issue. To his understanding, the Committee's deep regret about the current state of affairs were made with reference to the two motion debates in LegCo. As the community had no consensus on the issue, the Administration considered it not an appropriate time to introduce compulsory collective bargaining by legislation in Hong Kong. Nevertheless, it was promoting the establishment of tripartite committees comprising representatives of employers, employees' organizations and the Labour Department. Five tripartite committees had so far been formed. They served as useful forum for the discussion of industry-specific issues on a voluntary basis. The aim was to foster voluntary collective bargaining. Mr LEE Cheuk-yan said that there was previously consensus on the issue in LegCo in the past. However, the relevant legislation had been subsequently repealed. He pointed out that tripartite committees were committees at industry level, not establishment level.

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3. As regards employer-employee communications at establishment level, Chief Labour Officer (Trade Unions and Wage Security) (CLO(TUWS)) said that the Workplace Consultation Promotion Unit (WCPU) of the Labour Department (LD) was providing a wide range of services including assisting employers to set up or improve their in-house machinery for effective communication, consultation and voluntary negotiation, and organising promotional activities such as seminars and workshops to improve communication between employers and employees. In response to the Chairman, she said that between its establishment in April 1998 and the end of 1999, WCPU had provided consultation service to 51 establishments, among which two establishments had formed workplace consultation committees. Employers had to put in considerable resources to establish and serve the workplace consultation committees and time was also an element since committee rules would need to be drafted and agreed.

4. Mr LEUNG Yiu-chung said that the function of tripartite committees, regardless of whether they were established at establishment or industry levels, was limited. As the employee representatives had no legally representative status, they were in fear of dismissal in bargaining with employers. He considered it very important for the employee representatives to have a legal representative status in their dialogue with employers. He asked when it would be an appropriate time to introduce collective bargaining and whether the Administration would launch an opinion poll to gauge the views of the public on collective bargaining.

5. AC for L responded that it would be an appropriate time for the introduction of compulsory collective bargaining when there was a consensus support in the community as well as among employees and employers. As two motions on the issue had been voted down at former meetings of LegCo, the Administration considered that there was no consensus view in the community on the issue. He added that an opinion poll on the issue would be difficult, as different people might have different interpretation of the meaning of collective bargaining. There were also different levels of collective bargaining. Mr LEUNG Yiu-chung disagreed and said that opinion polls were only used to gauge the general view of the public on an issue. AC for L noted the views of Mr LEUNG.

6. Mr LEE Kai-ming said that the Administration had been promoting voluntary collective bargaining for many years without success. He said that employer-employee relations was becoming poor and tense. The meeting of the Labour Advisory Board (LAB) in December 1999 could not be convened due to the non-availability of some employers' representatives even after seven alternative meeting dates were proposed. The January meeting of LAB was also not yet scheduled. He asked whether the Administration would address the problem of poor employer-employee relations through the introduction of legislative measures. Miss CHAN Yuen-han asked whether employers' representatives were increasingly reluctant to attend the meetings of LAB. She said that if the issue of reinstatement was not discussed by LAB, she would consider introducing a Member's bill on reinstatement.

7. AC for L said that the last regular meeting of LAB was held on 30 November

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1999 and the next regular meeting was scheduled for March 2000. While the special meeting of LAB in December 1999 could not be convened due to the non-availability of some members, he was not sure whether seven alternative meeting dates had been proposed. He said that it was usually difficult to arrange for a meeting time convenient to all the 12 members of LAB especially towards the end of a year when some members were out of town. The January meeting of LAB was still being arranged. The Administration was very concerned about employer-employee relations. It would try its best to resolve labour disputes. As regards the promotion of employer-employee relations, a committee on human resource management for small and medium sized establishments had recently been formed and had convened its first meeting in the previous week. The Administration would continue to promote employer-employee relations. In this respect, the tripartite committees had been playing an important role.

8. Miss CHAN Yuen-han said that there was a general trend of retrenchment and reduction in wages as well as benefits. They were usually implemented by employers without any consultation with employees. She said that Hong Kong was undergoing the third economic restructuring. Persons below secondary three education level were finding it increasingly difficult to find a job. The salary of some employees were even reduced to \$3,000 per month. If the problems were not addressed, they would become an origin of social unrest.

9. AC for L said that the year of 1998-99 had been a difficult one both for employers and employees. Where unilateral reduction of wages and benefits by employers came to the notice of LD, it would do a lot of mediation work behind the scene. It would continue its work in the promotion of employer-employee relations. The average salary of workers was determined by market forces of supply and demand. LD had been doing a lot in the protection of employees' rights. Retraining and employment service would be provided to more elder employees and employees with lower education level.

10. Miss CHAN Yuen-han said that a financial institution which had been maintaining profits was recently reported to reduce the retirement benefits of its employees in anticipation of the introduction of the Mandatory Provident Fund Scheme at the end of 2000. She asked whether the Administration had taken actions against such unfair practice and lack of consultation by employers.

11. Chief Labour Officer (Labour Relations) (CLO(LR)) agreed that wage reduction and retrenchment had been found in more organizations as a result of the economic difficulties in the previous year. There had been a substantial increase in the number of labour disputes in 1998. However, the situation had stabilized with a decrease of about 14% in labour disputes in 1999. Whenever wage or benefits reduction came to its knowledge, LD always approached the organization concerned to understand the situation. It would advise the employer concerned to consult his employees and to secure staff consent before making any change. In most cases, the employers had acceded to LD's advice and the problems had been resolved peacefully without capturing the media's attention. As regards the case referred to by Miss CHAN, the

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LD had taken prompt action and because of its advice, the institution had withheld its move and launched another plan that involved financial commitments of hundreds of millions of dollars. In the past two years, LD had done a lot in the prevention of labour disputes in similar situations. It would continue to remind employers of the need to consult employees before implementing any change in employment terms.

12. Miss CHAN Yuen-han said that the financial institution concerned did not change its plan of reducing the retirement benefits of employees. The hundreds of millions of dollars were only spent by the financial institution for settling the year end double-pay of its employees. She was concerned that a number of establishments were reducing employee benefits despite making substantial profits. Employees were in fear of dismissal and therefore reluctant to stand out and oppose against such move. She considered that the current approach adopted by the Administration could not address the problem and that collective bargaining should be introduced.

13. Mr LEE Cheuk-yan expressed concern that an establishment owned by an Executive Council Member was also reported to be reducing its employee benefits. He said that the introduction of an objective mechanism would result in a balance of bargaining power between employers and employees, which could not be achieved through the measures adopted by the Administration. The two workplace consultation committees as referred to by CLO(TUWS) were organizations formed by employers rather than employees. He considered that the Administration was in contravention of ILC No. 98. He reiterated that tripartite committees were not committees at establishment level. He asked whether the Administration had facilitated the successful formation of a labour union in any establishment.

14. CLO(TUWS) said that ILC No. 98 allowed the taking of measures appropriate to national conditions, where necessary, to promote the full development and utilization of machinery for voluntary negotiation between employers or employers' organizations and workers' organizations. She added that there was no information on the number of labour unions recognized in establishments which had made use of WCPU's consultancy service.

15. At the request of Mr LEE Cheuk-yan, Principal Assistant Secretary for Education and Manpower (Acting) (PAS(EM)(Atg)) agreed to provide the Chinese translation of the extract of the Committee's 318th report on Hong Kong.

Adm

Right to strike

16. Mr LEE Kai-ming asked whether legislative amendments to the Employment Ordinance (Cap. 57) regarding workers' right to strike could be completed within the current legislative session and whether they would incorporate provisions relating to reinstatement. PAS(EM)(Atg) responded that it was the Administration's intention to introduce the legislative amendments relating to workers' right to strike into LegCo within the current legislative session. As the issue of reinstatement was still under discussion at LAB, it would not be incorporated in the aforementioned legislative amendments.

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17. Mr LEE Kai-ming said that it was not unusual for employers' representatives and employees' representatives in LAB to have very different views. As LAB was an advisory body, the Administration could make its own decision after listening to the views of LAB members. He questioned why the issue of reinstatement had to be discussed by LAB for so long while the Supplementary Labour Scheme had been implemented shortly after discussion by LAB. AC for L said that previous discussions on the issue were made by a subcommittee of LAB. The issue had only been first discussed by LAB at its meeting on 30 November 1999. As some employers' representatives needed to consult the organizations which they represented, it was decided that the issue be discussed again at the next meeting of LAB.

18. The Chairman said that members were concerned about the deterioration in employer-employee relations. AC for L noted members' concerns.

II. Date of next meeting

19. Members agreed to schedule the next meeting for 29 February 2000 at 2:30 pm to review the issues discussed.

20. There being no other business, the meeting ended at 12:02 pm.

Legislative Council Secretariat
8 March 2000