

立法會
Legislative Council

Ref : CB2/PL/MP/1

LC Paper No. CB(2)654/05-06
(These minutes have been seen
by the Administration)

Panel on Manpower

Minutes of meeting
held on Thursday, 17 November 2005 at 2:30 pm
in Conference Room A of the Legislative Council Building

Members present : Hon LAU Chin-shek, JP (Chairman)
Hon KWONG Chi-kin (Deputy Chairman)
Hon LEE Cheuk-yan
Hon CHAN Yuen-han, JP
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Andrew CHENG Kar-foo
Hon LI Fung-ying, BBS, JP
Hon Frederick FUNG Kin-kee, JP
Hon WONG Kwok-hing, MH
Hon LEUNG Kwok-hung

Member attending : Hon James TIEN Pei-chun, GBS, JP

Members absent : Hon LEUNG Yiu-chung
Hon Tommy CHEUNG Yu-yan, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP

Public Officers attending : Item III

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

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

Mrs Stella HUNG
Director of Government Logistics

Mr Philip YUNG
Deputy Secretary for Commerce, Industry & Technology
(Commerce & Industry)¹

Mr C S WAI
Deputy Secretary for the Environment, Transport & Works
(Works)²

Miss Amy TSE
Deputy Secretary for Financial Services and the Treasury
(Treasury)³

Mr Martin CHEUNG
Assistant Director of Housing (Development & Procurement)
(Acting)

Miss Milly AU YEUNG
Principal Trade Officer
Trade and Industry Department

Item IV

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

Mr Alan WONG
Assistant Commissioner for Labour (Labour Relations)

Mr KOO Chiu-shing
Senior Labour Officer
Labour Department

Item V

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

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

Mr Byron NG
Senior Labour Officer
Labour Department

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

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

Ms Alice CHEUNG
Legislative Assistant (2)1

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I. Confirmation of minutes of previous meeting
(LC Paper Nos. CB(2)184/05-06 & CB(2)358/05-06)

The minutes of the meetings held on 13 and 20 October 2005 were confirmed.

II. Date of next meeting and items for discussion
(LC Paper Nos. CB(2)356/05-06(01) and (02))

2. Members agreed that the following items would be discussed at the next meeting to be held on 15 December 2005 at 2:30 pm -

- (a) Prevention of abuse of the Protection of Wages on Insolvency Fund;
- (b) Hong Kong's occupational safety performance in the first half of 2005;
and
- (c) Employment services for unemployed Comprehensive Social Security Assistance recipients.

3. Regarding the item referred to in paragraph 2(c), Permanent Secretary for Economic Development and Labour (Labour) (PSL) said that updated information on the job vacancies received by the Labour Department (LD) were made available at the Vacancy Search Terminals installed in all Social Security Field Units of the Social Welfare Department (SWD). Referrals were made wherever appropriate.

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(*Post-meeting note* : At the request of the Administration and with the concurrence of the Chairman, the item referred to in paragraph 2(c) would not be discussed at the next meeting.)

4. Ms LI Fung-ying suggested that the extension of temporary jobs in the public sector should be discussed at the next meeting. PSL said that the relevant information for the item would not be available until January 2006.

III. Implications of the World Trade Organization Agreement on Government Procurement on local employment

(LC Paper No. CB(2)356/05-06(03))

5. PSL, Deputy Secretary for Commerce, Industry & Technology (Commerce and Industry)1 (DSCIT1) and Deputy Secretary for Financial Services and the Treasury (Treasury) 3 (DS(Tsy)3) briefed Members on the implications of the World Trade Organization Agreement on Government Procurement (GPA) on the procurement policy of the Hong Kong Special Administrative Region Government and local employment.

6. Referring to paragraph 7 of the Administration's paper, Miss CHAN Yuen-han, Mr LEE Cheuk-yan and Ms LI Fung-ying disagreed with the Administration's statement that joining GPA in 1997 had not led to any change in the Government's procurement policy. Miss CHAN Yuen-han said that many GPA parties had imposed additional requirements, such as those on environmental protection, to protect local employment. To her knowledge, Japan had adopted a higher GPA threshold. She considered that Hong Kong should also adopt similar measures to protect the employment of local workers.

7. DSCIT1 responded that for central government entities, the GPA threshold for goods and non-construction services was about HK\$1.3 million for all GPA parties. The GPA threshold for construction services was about HK\$50 million and Japan had adopted a lower threshold of about HK\$45 million. The GPA thresholds of Hong Kong were not lower than the norm for other GPA parties. He said that the spirit and objectives of GPA were fully consistent with the Government's procurement policy. He added that Hong Kong did not have sub-central government entities. Miss CHAN Yuen-han requested the Administration to provide information on the respective GPA thresholds adopted by the GPA parties and additional conditions imposed.

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8. Mr LEE Cheuk-yan said that although Hong Kong had adopted GPA thresholds for central government entities, many GPA parties had bypassed such thresholds through sub-central government entities. He expressed concern that although environmental impact was one of the factors considered under the Government's procurement policy, implications on local employment were not. He pointed out that prefabricated units for housing and public works projects and uniforms, which were

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formerly manufactured locally, were no longer produced in Hong Kong. He considered that Hong Kong should withdraw from GPA and the Administration should amend its procurement policy to require all prefabricated units for housing and public works projects as well as uniforms to be manufactured locally.

9. DSCIT1 responded that joining GPA was consistent with the Government's free trade and fair competition policy. It had not led to any change in the Government's procurement policy. He said that many of the GPA parties were the major trading partners of Hong Kong and GPA provided non-discriminatory access for Hong Kong to these markets. Withdrawing from GPA would adversely affect the image of Hong Kong and might result in other GPA parties imposing discriminatory measures against Hong Kong suppliers. Also, such a withdrawal would not lead to any change in the Government procurement policy.

10. Ms LI Fung-ying queried whether the Government had really not changed its procurement policy after joining GPA in 1997. She also asked whether the Administration would conduct a full review of its procurement policy and consider imposing a 50% local production requirement on the goods to be procured.

11. DS(Tsy)3 responded that the Government's procurement policy had remained unchanged after Hong Kong joined GPA in 1997 in that it was still guided by the principles of fair and open competition, transparency, public accountability and value for money. She pointed out that among goods valued at \$4 billion procured between 1993 and 1996, 3.5% were produced locally. Among goods valued at \$5.5 billion procured between 1997 and 2004, 4.33% were locally produced. This reflected that the percentage of locally produced goods had increased. However, it should be noted that many goods, such as medicine, were not produced locally.

12. Mr LEE Cheuk-yan said that, as only a very small percentage of the goods procured by the Administration was produced locally, imposing a local production requirement should result in a substantial increase in the procurement of local goods. This would significantly improve local employment. He referred to a newspaper article dated 24 April 1996 and pointed out that Police uniforms were formerly manufactured by a local supplier.

13. Director of Government Logistics (DGL) responded that the majority of the uniform items for various government departments, such as the Police and Correctional Services Department (CSD), were produced by inmates of the CSD. She said that between 1993 and 1996, when Hong Kong had not yet joined GPA, the Administration had only procured locally produced goods at an average of about \$142 million per year whereas the corresponding figure for the period between 1997 and 2004 after the Government had joined GPA averaged around \$217 million per year. It should be noted that many products, such as computers, paper and motor vehicles, were not produced locally. Even if Hong Kong were to withdraw from GPA, the benefits to local suppliers and hence local employment might not be as much as expected.

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Admin 14. Ms LI Fung-ying said that the Administration should consider requiring uniform items to be produced locally and consider imposing a 50% local production requirement. DS(Tsy)3 agreed to consider the suggestion. She added that the Administration would have to give due regard to the principle of value for money in government procurement when considering the issue.

Admin 15. Mr WONG Kwok-hing said that the Administration should conduct a full review on its procurement policy. He pointed out that about 75% of prefabricated items for construction projects, including ventilation ducts for air-conditioning systems, were manufactured in the Mainland. He considered that a local production requirement of at least 50% should be imposed on construction projects. PSL agreed to convey the suggestion to the relevant bureaux.

16. DGL said that the uniforms of law enforcement officers, such as Police officers and officers of CSD, were manufactured by inmates of penal institutions. Among the remaining uniform items of other government departments, which came to about \$5.6 million in 2004, none of the offers received from the suppliers were of Hong Kong origin. As for shoes, which were a uniform item, and comprised 48 designs with a total cost of \$12 million in 2004, only one supplier indicated that the shoes offered would be manufactured locally and the price quoted was much higher than those of other suppliers. She said that the problem arose from the relocation of manufacturing businesses to the Mainland rather than Government's procurement policy.

17. Mr LEUNG Kwok-hung said that the Administration was more concerned about protecting the interest of major industries in Hong Kong than the employment of local workers. He shared Mr LEE Cheuk-yan's view that Hong Kong should withdraw from GPA.

18. Mr TSANG Yok-sing asked why printing services was not included in Hong Kong's specific commitments under GPA. He also asked whether there was a common list of service sectors for all GPA parties or the GPA parties decided on their own the sectors to be covered.

Admin 19. DSCIT1 undertook to provide a written response on the services sectors covered by GPA and the reasons for not including printing services. He also said that there was no common list and the coverage of each GPA party was the results of negotiations. If Hong Kong wished to modify its commitments under GPA, it had to notify the World Trade Organization Committee on Government Procurement, which would consider the proposed modification and any claim for compensatory adjustments from other GPA parties.

20. Mr TSANG Yok-sing said that before joining GPA, the Administration should have a clear knowledge of what would be the impact on Hong Kong. He questioned whether the Administration had tried its best to secure terms that were in the best

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Admin interests of Hong Kong. The Chairman requested the Administration to provide a written response. The Deputy Chairman added that many people had queried whether the interests of Hong Kong had been sacrificed when Hong Kong joined GPA just prior to reunification.

Admin 21. Mr TSANG Yok-sing asked whether there were goods which had been procured locally before Hong Kong joined GPA but could not be procured locally thereafter. Referring to paragraph 4 of the Administration's paper, he requested the Administration to provide statistics to substantiate its claim that joining GPA provided local companies with more business opportunities which, in turn, encouraged investments and created jobs. He also requested the Administration to provide information on those Hong Kong businesses that could not enter overseas markets previously but had managed to do so after Hong Kong joined GPA. DSCIT1 responded that the Administration did not have statistics on companies bidding for overseas government tenders as companies were not required to report these cases to the Government. Nevertheless, he agreed to provide a written response on improvement in market access opportunity after joining GPA.

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22. Mr LEE Cheuk-yan moved the following motion which had been amended by Mr WONG Kwok-hing –

“鑑於世界大多數國家並未有加入世貿採購協定及爲了實踐本地工人就業優先政策，本委員會要求特區政府聯同勞工界在半年內完成全面檢討世貿採購協定下的特區政府採購政策，並規定政府購買的貨品及服務必須優先保障本地工人就業機會。否則特區政府便應退出世貿採購協定。”

(Translation)

“That as the majority of countries in the world have not joined the World Trade Organization Agreement on Government Procurement, and in order to realise the policy of giving priority of employment to local workers, this Panel urges the Hong Kong Special Administrative Region Government, together with the labour sector, to conduct a comprehensive review on its procurement policy under the World Trade Organization Agreement on Government Procurement within six months and impose a requirement that priority be given to safeguarding the employment opportunities for local workers in government procurement of goods and services; or else the Hong Kong Special Administrative Region Government should withdraw from the World Trade Organization Agreement on Government Procurement.”

23. Mr TSANG Yok-sing said that, as withdrawal from GPA was an important issue which had not been discussed by the Democratic Alliance for Betterment of Hong Kong and the Administration had stated that such withdrawal might result in other GPA parties imposing discriminatory measures against Hong Kong suppliers, he was not in a position to support the motion.

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24. Miss CHAN Yuen-han said that a special meeting should be held to discuss the issues referred to in the motion, if no action was taken by the Administration after the motion was passed.

25. The Chairman put the motion to vote. Seven members voted in favour of the motion and no member voted against the motion. One member abstained from voting. The Chairman declared that the motion was carried.

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26. PSL assured Members that the Administration would review the Government procurement policy under the GPA.

IV. Proposal to increase the maximum penalty for wage offences under the Employment Ordinance
(LC Paper No. CB(2)356/05-06(04))

27. PSL briefed Members on the Administration's proposal to increase the maximum penalty for wage offences under section 63C of the Employment Ordinance (Cap. 57) (EO). He said that the Administration's plan was to introduce the relevant bill into the Legislative Council as soon as possible.

28. Mr WONG Kwok-hing expressed support for the Administration's proposal. He questioned whether LD had proactively taken law enforcement actions against employers who contravened wage provisions under EO. He considered that LD should proactively take enforcement actions against wage offences and summon employees to testify before the court.

29. PSL responded that LD would take out prosecution if there was sufficient evidence. In cases where the employees were unwilling to testify in court, LD would focus its work on conciliation and assisting employees to recover their wages. He stressed that LD took a very serious view on wage offences and had taken rigorous enforcement actions to tackle the problem. This had resulted in a hefty increase in the number of convicted summonses on wage offences from 139 in 2002 to 445 in 2003 and 504 in 2004. LD had also stepped up publicity and promotion to remind employers of their statutory obligations and to urge employees to pursue wage claims promptly. LD had established a hotline for receiving complaints on wage offences and produced leaflets on wage offences.

30. Mr LEE Cheuk-yan said that the Hong Kong Confederation of Trade Unions (HKCTU) welcomed the Administration's adoption of HKCTU's proposal to increase the maximum penalty for wage offences. He expressed concern that the directors of limited companies were not personally liable for offences under section 63C of EO. Although directors of limited companies were liable for offences under section 64B of EO, the burden of proof under the section was much heavier. He suggested that section

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64B of EO should be amended to the effect that a director who had no reasonable excuse would be liable for an offence committed by his limited company under section 63C of EO. Witnesses should be summoned to testify before the court.

31. While expressing support for the Administration's proposal, Ms LI Fung-ying pointed out that it would be very difficult to institute prosecution under section 63C of EO. She considered that the Administration should take practical steps to assist employees. She asked whether the Administration had examined the average fine imposed on convicted summonses on wage offences.

32. PSL responded that the Administration was taking practical steps to increase the maximum penalty for wage offences to increase the deterrent effect. Apart from prosecuting employers for wage offences, LD had also prosecuted the directors and other responsible persons of limited companies under section 64B of EO. The Administration was also considering the feasibility of amending the said section and was seeking the advice of the Department of Justice in this respect. He added that an employer had recently been fined \$140,000 for committing wage offences. The heavier sentences imposed recently by the court on persons convicted of wage offences under EO had a deterrent effect.

33. Mr LEE Cheuk-yan suggested that the Administration should offer awards to employees who were willing to stand out as witnesses and testify before the court. His view was shared by Mr WONG Kwok-hing.

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34. PSL agreed to consider the suggestion, but pointed out that this might have wide legal implications.

35. The Deputy Chairman said that LD had, when dealing with cases involving wage offences, adopted the practice of asking the employees concerned whether they were willing to testify before the court. He suggested that LD should, instead of first asking such a question, directly take statements from the employees concerned.

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36. PSL agreed to consider the suggestion, but cautioned that such a change might affect the chance of successful conciliation, which currently stood at about 70%.

37. Mr WONG Kwok-hing considered that taking firm actions against employers would only increase the chance of successful conciliation. PSL responded that LD would step up its enforcement actions. In this connection, he informed Members that LD had employed a number of former veteran Police officers with expertise in criminal investigation to facilitate its work in the area.

38. Mr James TIEN said that the Liberal Party supported the Administration's proposal. The employers' representatives on the Labour Advisory Board had also expressed support for the proposal. He added that employers who evaded wage payments were only small in number.

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39. Mr LEUNG Kwok-hung asked about the number of LD personnel engaged in the investigation and prosecution relating to wage offences. He also asked whether there were differences between the powers of such personnel and Police officers. He considered that such personnel should preferably be lawyers or persons who possessed experience in the legal field.

40. PSL responded that the Prosecution Division and the Employment Claims Investigation Division of LD had a total strength of more than 20 staff. Such staff members were mainly Labour Officers who had undergone training provided by the Department of Justice. In addition, LD had recently employed seven former veteran Police officers to assist in intelligence and evidence collection. While such personnel were empowered to undertake investigations, they were not empowered to arrest or detain persons. PSL added that the relevant prosecution work was supported by a Senior Government Counsel and a Government Counsel.

V. Employment services provided by the Labour Department
(LC Paper No. CB(2)356/05-06(05))

41. Mr WONG Kwok-hing asked whether the Administration and non-government organisations (NGOs) could jointly assist the unemployed to form cooperative societies and bid for security or cleansing contracts outsourced by the Government with priority. Mr LEE Cheuk-yan added that the Administration should conduct a full review on the operations of cooperative societies and introduce complementary measures to facilitate their operations.

42. PSL responded that the Administration kept an open mind on the suggestion. The Administration had examined the issue and noted that some contracts outsourced by the Government might be too large for cooperative societies. Nevertheless, the Administration would further examine the suggestion.

43. Mr LEE Cheuk-yan said that there was no coordination among the services provided by LD, SWD and NGOs for the unemployed. He asked whether the Administration would consider providing a one-stop employment and social welfare services for the unemployed, as was the case in the United Kingdom. He added that some subsidy should be provided to job-seekers to facilitate their preparation for job interviews.

44. PSL responded that although there was a division of labour between the work of LD and that of SWD, there was much coordination between the two Departments. Updated information on the job vacancies received by LD was made available at the Vacancy Search Terminals installed in all Social Security Field Units of SWD and referrals were made where appropriate. Most of the Job Centres of LD and the Social

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Security Field Units of SWD were either adjacent to each other or located in the same building.

45. Ms LI Fung-ying said that although a number of programmes had been launched by LD in recent years, many people had found it difficult to choose among the different programmes. She asked whether the Administration would review the programmes and implement the successful ones on a long-term basis.

46. PSL responded that the programmes launched in recent years, including the Youth Work Experience and Training Scheme, the Youth Pre-employment Training Programme (YPTP), the Work Trial Scheme and the Employment Programme for the Middle-aged, sought to tackle unemployment through various means. The programmes were constantly reviewed by the Administration. More than 200 job-seekers had undertaken work trials under the Work Trial Scheme and more than 70 of them had successfully found a job.

47. Ms LI Fung-ying considered that the Administration should extend the Special Incentive Allowance Scheme for local domestic helpers to part-time and temporary workers as well as employees of other industries.

48. PSL responded that, to his knowledge, the issue was being examined by the Commission on Poverty.

49. Mr TSANG Yok-sing said that although LD had organised some 30 briefings for ethnic minorities, attendance at the briefings was very low. He asked how the Administration would ensure that its employment service could reach the ethnic minorities.

50. PSL responded that Resource Corners had been set up at Job Centres for ethnic minorities. The Administration was promoting its employment service through the Home Affairs Department's committee on ethnic minorities, relevant consulates and NGOs such as the Christian Action. He informed Members that a recent "Most Improved Trainee" of YPTP, who had managed to find a job after joining the YPTP organised by Christian Action, was an ethnic minority from the Philippines.

51. Assistant Commissioner for Labour (Employment Services) said that job fairs and promotional activities for ethnic minorities were regularly organised by the LD and NGOs. Briefings on the latest situation in the job market and communication skills were also organised regularly at Job Centres. Senior Labour Officer, Labour Department added that after meetings between representatives of LD and ethnic minority groups a few months ago, it was observed that more ethnic minorities had visited the Job Centres and made use of the Vacancy Search Terminals.

52. Mr LEUNG Kwok-hung said that unemployment assistance, instead of Comprehensive Social Security Assistance, should be provided to the unemployed. He

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considered that many of the programmes organised by LD could not assist the unemployed in finding a job and the number of unemployed was still increasing. Many participants might join the programmes merely for the subsidies or allowances. He asked about the length of period for which the employment of graduates from YPTP was followed up.

53. PSL noted the views of Mr LEUNG Kwok-hung. He said that YPTP had provided training to more than 66 000 young persons aged 15 to 19, among whom about 70% had secured employment. Through case management service, social workers usually followed up the trainees for a period of half to one year.

54. Mr LEUNG Kwok-hung said that a number of workers in Sheung Shui had complained of very low wages offered by contractors engaged in services outsourced by the Government. PSL asked Mr LEUNG to provide further information to the Administration for follow-up.

55. The meeting ended at 4:50 pm.