

立法會

Legislative Council

LC Paper No. CB(1)52/09-10
(These minutes have been
seen by the Administration)

Ref : CB1/PL/TP/1

Panel on Transport

Minutes of meeting held on Friday, 26 June 2009, at 8:30 am in Conference Room A of the Legislative Council Building

Members present : Hon CHEUNG Hok-ming, SBS, JP Chairman)
Hon Andrew CHENG Kar-foo (Deputy Chairman)
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon LAU Kong-wah, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon LI Fung-ying, BBS, JP
Hon Tommy CHEUNG Yu-yan, SBS, JP
Hon Albert CHAN Wai-yip
Hon WONG Kwok-hing, MH
Hon LEE Wing-tat
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon LEUNG Kwok-hung
Hon Ronny TONG Ka-wah, SC
Hon KAM Nai-wai, MH
Hon WONG Sing-chi
Hon IP Wai-ming, MH

Member attending : Hon LEE Cheuk-yan

Members absent : Hon Miriam LAU Kin-ye, GBS, JP
Hon Mrs Regina IP LAU Suk-ye, GBS, JP

**Public officers
attending** : **Agenda item III**

Mr YAU Shing-mu
Under Secretary for Transport and Housing

Mrs Susanne WONG
Principal Assistant Secretary for Transport and
Housing (Transport) 4 (Atg.)

Mr Albert YUEN
Assistant Commissioner/Bus & Railway
Transport Department

Mr Charles WU
Principal Transport Officer / Bus and Railway 2
(Acting)

MTR Corporation Limited

Mr T T CHOI
Head of Operating

Ms Daphne MAK
Personnel Manager

Ms Ida LEUNG
Senior Manager – External Affairs

Agenda item IV

Ms Eva CHENG, JP
Secretary for Transport and Housing

Mr Alan K M CHU
Deputy Secretary for Transport and Housing
(Transport)

Miss Rosanna LAW
Principal Assistant Secretary for Transport and
Housing (Transport)

Mr M R DEMAID-GROVES
Chief Superintendent of Police (Traffic)
Hong Kong Police Force

Ms CHU Ming-po
Senior Superintendent of Police (Adm) (Traffic)
Hong Kong Police Force

Agenda item V

Mr YAU Shing-mu, JP
Under Secretary for Transport and Housing

Miss Rosanna LAW
Principal Assistant Secretary for Transport and
Housing (Transport) 2

Mr Don HO
Assistant Commissioner / Management &
Paratransit

Mr Albert SU
Principal Transport Officer / Urban

Mr M R DEMAID-GROVES
Chief Superintendent of Police (Traffic)
Hong Kong Police Force

Ms CHU Ming-po
Senior Superintendent of Police (Adm) (Traffic)
Hong Kong Police Force

**Attendance by
invitation**

: Agenda item III

Kowloon Canton Railway Operating Staff
Association

Ms LAU Choi-hung
Chairman

Mr SIN Wai-sheung
Secretary

Hong Kong Railway Employees Union

Mr LAM Kwan-yui
Chairman

Mr LEUNG Chi-kong
Personnel Affairs Officer

Hong Kong Railway Workers General Union

Mr NGAI Kam-fai
Chairman

Mr TSANG Kam-chiu
Secretary

Kowloon-Canton Railway Workers Union

Mr LO Tung-ki
Vice Chairman

Mr POON Wai-hung
Secretary

Mass Transit Railway Corporation Staff Union

Mr CHAN Sin-wo
Chairman

Mr LO Pun-wai
Vice Chairman

Hong Kong Mass Transit Railway Staff General Association

Mr FUNG Hin-cheong
Chairman

Mr MAK Pui-tung
Vice Chairman

Hong Kong Railway Management Professionals Union

Mr WONG Yuen-wood
Chairman

Mr LAM Shiu-wai
Committee Member

Clerk in attendance : Ms Joanne MAK
Chief Council Secretary (1)2

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

Miss Winnie CHENG
Legislative Assistant (1)5

Action

I Information papers issued since last meeting

| | |
|----------------------------------|--|
| (LC Paper CB(1)1984/08-09(01) | No. - Submission complaining about the service of the East Rail Line |
| LC Paper CB(1)1985/08-09(01) | No. - Administration's paper on 159TB – reconstruction of footbridge near Hsin Kuang Centre and extension of bus bays at Lung Cheung Road) |

Members noted the above papers issued after the last meeting.

II Items for discussion at the next meeting

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| (LC Paper CB(1)1982/08-09(01) | No. - List of outstanding items for discussion |
| LC Paper No. CB(1)1982/08-09(02) | - List of follow-up actions) |

2. Members agreed to discuss the following items at the next regular meeting on Friday, 17 July 2009, at 8:30 am –

- (a) Legislative proposals to combat drink driving;
- (b) Kowloon Southern Link progress update and fares; and
- (c) Safety of taxi drivers and installation of safety devices in taxis.

3. As the Chairman would not be available to chair the next meeting on 17 July 2009, the Deputy Chairman agreed to chair the July meeting on behalf of the Chairman.

4. Members noted a letter tabled at the meeting from Mr IP Wai-ming to the Chairman. Mr IP expressed concern that the award of contracts for the management, operation and maintenance of Government tunnels to the lowest tenderer might affect the livelihood of the staff concerned and the management quality and safety of government tunnels, and proposed to discuss "Issues relating to contracts for the management, operation and maintenance of government tunnels" in September 2009. Members agreed. The issue of "Regulation of charging taxi fares according to meters" would also be included

for discussion at the special meeting and members of the taxi trade would be invited to give views.

(Post-meeting note: The special meeting was subsequently scheduled for 23 September 2009 at 10:45 am.)

- III Further discussion on changes made by MTRCL to staff welfare**
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| (LC Paper No. CB(1)1982/08-09(03) | No. - Administration's paper on MTR staff salary and benefits matters after the Merger |
| LC Paper No. CB(1)1982/08-09(04) | - Paper on MTR staff salary and benefits matters after the Merger from MTR Corporation Limited |
| LC Paper No. CB(1)1613/08-09(04) | - Paper on MTR staff salary and benefits matters after the merger from MTR Corporation Ltd |
| LC Paper No. CB(1)1672/08-09(04) | - Submission from a group of Light Rail train captains |
| LC Paper No. CB(1)1672/08-09(06) | Extract from the report of the Bills Committee on Rail Merger Bill) |

Presentation of views by deputations

*Kowloon Canton Railway Operating Staff Association
(LC Paper No. CB(1)1931/08-09(01))*

5. Ms LAU Choi-hung, Chairman of the Association, quoted a case to explain the importance of experienced railway staff to railway operation, and how outsourcing of the core businesses of MTR Corporation Limited (MTRCL) could affect public safety.

*Hong Kong Railway Employees Union (the Employees Union)
(LC Papers Nos. CB(1)691/08-09(01), CB(1)1672/08-09(03) and
CB(1)2059/08-09(01))*

6. Mr LAM Kwan-yui, Chairman of the Employees Union, briefed members on the salient points of the Employees Union's views as detailed in its latest submission (LC Paper No. CB(1)2059/08-09(01)). The Employees Union strongly urged the Administration to perform its monitoring role of ensuring MTRCL would provide its staff job protection and salary protection as committed in the context of the rail merger (the merger commitment), and highlighted examples of how MTRCL had been cutting various allowances and benefits of staff, increasing staff's working hours, and outsourcing

works/services without consulting staff unions.

Hong Kong Railway Workers General Union

(LC Papers Nos. CB(1)1672/08-09(05) and CB(1)2248/08-09(01))

7. Mr NGAI Kam-fai, Chairman of the General Union, briefed members on the salient points of the General Union's views as detailed in its submissions. In gist, the General Union was concerned that despite the merger commitment, MTRCL had introduced various changes that had adversely affected its staff's job security and benefits. For example, outsourcing of its services and redeployment of its staff to posts which they had difficulty in adapting, abolition of the 30-minute paid meal break originally enjoyed by bus captains of pre-merger Kowloon-Canton Railway Corporation (KCRC). In the General Union's view, the Government should ensure that MTRCL would properly communicate with its staff before introducing such changes.

Kowloon-Canton Railway Workers Union

(LC Paper No. CB(1)2248/08-09(01))

8. Mr LO Tung-ki, Vice Chairman of the Workers Union, briefed members on the salient points of the Workers Union's views as detailed in its joint submission with the Hong Kong Railway Workers General Union. The Workers Union urged the Administration to ensure that MTRCL would honour the merger commitment instead of introducing changes to staff benefits under various excuses, e.g. through the planned outsourcing of the ticket inspection service. The Workers Union was also concerned that when aligning various work-related arrangements, MTRCL always adopted the less favourable terms. For example, the downgrading of the originally supervisory Grade 7 of pre-merger KCRC staff to non-supervisory. In addition, communication between MTRCL and its staff was insufficient, and staff did not have the opportunity to express their views at staff briefings. Staff unions' notices were also subject to censorship before they could be posted on MTRCL's notice boards and onto the Intranet. Sometimes the notices might even be barred if MTRCL found them disagreeable.

Mass Transit Railway Corporation Staff Union

(LC Paper No. CB(1)1982/08-09(05))

9. Mr LO Pun-wai, Vice Chairman of the Staff Union, briefed members on the salient points of the Staff Union's views as detailed in its submission. He expressed concern about the undesirable changes to staff benefits introduced under the pretext of consistency, and urged MTRCL to continue to liaise with The Coalition of Five Unions of MTRCL and KCRC (the Coalition) on plans to change staff benefits. Mr CHAN Sin-wo, Chairman of the Staff Union, highlighted the risks of outsourcing the core businesses of MTRCL, and stressed that the move should not be taken for cost-saving purposes because MTRCL

was making profits. Stressing the importance of experienced staff to ensuring rail safety, he requested the Panel and the Administration to urge MTRCL to cease further outsourcing its services.

*Hong Kong Mass Transit Railway Staff General Association
(LC Paper No. CB(1)2042/08-09(01))*

10. Mr MAK Pui-tung, Vice Chairman of the General Association, referred members to the General Association's submission, and added that MTRCL's failure to respect staff unions' views and reluctance to communicate with them were the causes of the present conflicts between MTRCL and its staff. For example, changes to the conditions of eligibility for Black Rainstorm Allowance did not affect many MTRCL staff and could have been introduced smoothly if MTRCL had not unilaterally introduced the changes without consulting staff. Despite staff unions' repeated reminders, MTRCL had also failed to note that pre-merger KCRC staff would find it difficult to accept the abolition of benefits which they had long enjoyed in pre-merger days. MTRCL management's unilateral abolition of such benefits had seriously affected staff's faith in MTRCL's willingness to communicate. Mr MAK further expressed the General Association's concern about and objection to MTRCL's outsourcing of services without first achieving consensus with staff.

*Hong Kong Railway Management Professionals Union
(LC Paper No. CB(1)2042/08-09(02))*

11. Mr WONG Yuen-wood, Chairman of the Professionals Union, referred members to the Professionals Union's submission, and supplemented that neither did MTRCL respect staff unions nor was it genuinely willing to communicate with them despite the number of meetings it held with them. For example, although staff unions had repeatedly called for joint meetings with the MTRCL management to discuss their concern about outsourcing, MTRCL refused to meet with them collectively. He called on MTRCL to achieve a consensus with staff on matters related to outsourcing in consideration of its impacts on rail safety.

Administration's initial response to deputations' views

12. In response to the deputations' views, the Under Secretary for Transport and Housing (USTH) said that it was the Administration's view that, overall speaking, MTRCL was able to honour the merger commitment. As to work-related arrangements such as roster, meal breaks and work-related allowances, disagreements between staff and MTRCL on how the arrangements should be aligned could be resolved through consultation and negotiation. The Administration had also requested MTRCL to maintain good communication with staff.

13. Responding to the deputations' views, the Head of Operating, MTRCL (HO/MTRCL) briefed members on MTRCL's paper for this item and supplemented the following points –

- (a) MTRCL had already honoured the merger commitment and provided job security to frontline staff. A Voluntary Separation Scheme had also been introduced to offer staff more choice. MTRCL had also provided salary protection for all staff as undertaken in the context of the rail merger;
- (b) Apart from honouring the merger commitment, MTRCL had implemented a fare reduction package on Day One of the rail merger. Starting from 28 September 2008, student concessionary fares were further extended to pre-merger KCRC network for eligible students. Recently, MTRCL had also provided a Half Fare Promotion Scheme for certain categories of persons with disabilities; and
- (c) MTRCL had long been outsourcing certain works to maintain its competitiveness under the principle that no staff would thus be made redundant. If outsourcing led to redeployment of affected staff, training would be provided to help staff concerned adapt to the new postings.

14. The Personnel Manager, MTRCL (PM/MTRCL) added that since notices posted on MTRCL notice boards would be read by all staff and not only members of staff unions, it was necessary for MTRCL to set clear guidelines to ensure that these notices would not be inaccurate or defamatory, or affect MTRCL's normal operation. She further pointed out that MTRCL had in fact kept up good communication with staff. Decisions regarding matters of concern to staff were made after consulting them. In aligning work-related arrangements, MTRCL would also consult staff and make revisions in the light of staff's views as appropriate. As to the conversion of staff's weekly working hours from 39 hours a week to 42 hours per week, the staff concerned had in fact been given the right to choose between maintaining the working hours at 39 hours per week or converting to 42 hours per week.

Discussion

Whether MTRCL could honour the merger commitment

15. Mr WONG Kwok-hing expressed doubt on MTRCL's claim that it had honoured the merger commitment and highlighted its reduction of the amounts of Black Rainstorm Allowance and Lunar New Year Holiday Allowance for staff, and abolition of the 30-minute paid meal break originally enjoyed by bus captains of pre-merger KCRC. USTH responded that notwithstanding such

differences in views between MTRCL and its staff regarding specific details of work-related arrangements, the Administration was satisfied that MTRCL had honoured the merger commitment, and did not consider it appropriate to intervene in the detailed arrangement since MTRCL had full autonomy in handling its staff matters. The Administration had urged MTRCL to resolve the differences with its staff through negotiation via the established communication channels.

16. Ms LI Fung-ying opined that as the deputations' submissions had shown, MTRCL's claim that it had honoured the merger commitment was a lie. She expressed strong dissatisfaction that the Administration allowed MTRCL to gradually cut its staff's benefits. Instead of merely urging MTRCL and its staff to resolve their differences through negotiation, the Administration should actively follow up to ensure that the two sides could really properly discuss and reach consensus.

17. USTH responded that staff unions' concerns were mainly about work-related arrangements and allowances. While the Administration understood their concerns, it considered that the Government's focus should be whether MTRCL could provide effective public transport services and honour the merger commitment. As the Administration was satisfied that MTRCL had basically honoured the merger commitment, MTRCL should be allowed to sort out its differences with its staff on details of work-related arrangements and allowances through negotiation. The Administration had therefore only urged MTRCL to continue to properly communicate with its staff in this regard to bring about improvements.

18. Ms LI Fung-Ying, however, pointed out that some of the cases highlighted in staff unions' submissions involved not minor changes, e.g. the downgrading of the originally supervisory Grade 7 of pre-merger KCRC staff to non-supervisory, the conversion of staff's weekly working hours from 39 to 42 hours per week, etc. She urged the Administration to provide a written response to the deputations' submissions.

Admin

19. Mr WONG Sing-chi cautioned that the cases highlighted by the deputations at this meeting all amounted to changes to staff benefits and hence might constitute staff exploitation. Such examples included the conversion of staff's weekly working hours from 39 hours per week to 42 hours per week, abolition of the 30-minute paid meal break, etc. USTH responded that considering the need to align two different work systems under the rail merger, changes were inevitable and while such could be introduced for the better or for the worse, on the whole the various work-related arrangements after the rail merger were comparable to the arrangements before the rail merger. He further confirmed that those pre-merger KCRC staff whose weekly working hours had been converted from 39 to 42 hours per week had in fact been allowed to choose between maintaining the working hours at 39 hours per

week or converting to 42 hours per week.

20. Ms LAU Choi-hung, however, added that staff who chose to retain their original working hours at 39 hours per week would be discriminated against in performance appraisals. She also pointed out that the Administration should take note of the fact that some of the concerns of MTRCL staff were related to public safety, such as the consequence of outsourcing of works.

21. Mr IP Wai-ming opined that if the changes MTRCL introduced when aligning work-related arrangements had really been improvements, its staff unions would not have had so many grievances. He considered it disappointing that the Administration openly supported MTRCL's making changes to its staff benefits. Pointing out that the rail merger had been effected as a result of the merger commitment, Mr IP urged the Administration to ensure MTRCL could really honour the merger commitment. If not, members would find it difficult to support any proposal related to MTRCL in future.

22. USTH pointed out that changes to the Dead Early/Dead Late Allowance and the Lunar New Year Holiday Allowance were examples of changes made to align with the better arrangements of pre-merger KCRC. Ms LAU Choi-hung, however, pointed out that not all staff could benefit from the above allowances. Mr LEUNG Chi-kong added that the monthly salaries of Light Rail train captains had been cut by \$3,000 to \$6,000 after the rail merger.

23. Mr Abraham SHEK declared interests as an independent non-executive director of MTRCL. He expressed appreciation for staff's professional service, which had helped to place MTRCL in the front rank of railway operators where rail safety was concerned. He undertook to convey the views expressed by the staff unions and members at this meeting to the MTRCL board, and explained that MTRCL had in fact honoured the merger commitment. He considered that staff's concerns over changes made to work-related arrangements should be resolved through negotiation.

Views and concerns about communication within MTRCL

24. Mr WONG Kwok-hing strongly criticized MTRCL and the Administration for failing to keep up communication with staff unions. He said that he had urged MTRCL and the Administration to liaise with the Employees Union soon after he had received its letter dated 13 November 2008 complaining about changes made by MTRCL to staff benefits (LC Paper No. CB(1)691/08-09(01)). However, no action had been taken by the Administration and MTRCL to seriously address such complaints. He also criticized the Administration and MTRCL for failing to keep up communication with the Coalition, which was highly representative and was a useful

communication channel with staff after the rail merger.

25. USTH responded that the Administration had relayed the concerns of the Employees Union to MTRCL. Mr WONG Kwok-hing, however, opined that the Administration should ensure that MTRCL would positively respond to staff unions' concerns and meet with them. PM/MTRCL responded that there were established communication channels with staff unions in MTRCL. Apart from annual regular meetings with individual staff unions, MTRCL met with staff unions collectively on such issues as grade structure review, appraisal system, pay adjustment, work-related allowances etc. She added that where necessary, additional communication sessions with staff unions would be arranged.

26. Mr Jeffrey LAM opined that while it was understandable that changes had to be introduced to align the two pre-merger railway corporations' employment terms and benefits after the merger to achieve consistency, it was important that in so doing MTRCL should maintain adequate communication with staff. He urged MTRCL to carefully listen to staff's views and address their concerns.

27. Ms LI Fung-ying questioned why notices of staff unions should be subject to censorship. She said that MTRCL needed not do so as it could take legal actions if it considered their notices defamatory. She considered that such arrangement of MTRCL might also constitute discrimination against staff unions. PM/MTRCL responded that MTRCL only wanted to ensure that all notices posted on its notice boards complied with certain basic principles, namely, that they should be accurate and not defamatory, and that they should not affect company operation. Ms LI remained of the view that censorship of notices would greatly affect staff unions' communication with their members and their operation. Mr CHAN Sin-wo and Mr LAM Kwan-yui pointed out that notices that had been barred included the notice urging members to join the march on 1 May organized by the Hong Kong Confederation of Trade Unions and that asking staff to attend this meeting to support the staff unions.

28. Mr WONG Sing-chi also expressed concern that censorship of notices of staff unions might constitute discrimination against trade unions. He warned that MTRCL's relationship with staff and in turn railway operation would suffer because of this, and urged the Administration to proactively address the issue. Mr LEE Cheuk-yan echoed Mr WONG's views, and stated that the Hong Kong Confederation of Trade Unions was opposed to the rail merger and had long foreseen that it would culminate in the present scenario.
Concerns about outsourcing

29. Mr Jeffrey LAM enquired how job security of MTRCL's staff, service quality and rail safety could be ensured notwithstanding outsourcing of MTRCL's services. USTH responded that when MTRCL outsourced its

services, it would be required to prove that the move would not affect rail safety and service reliability. According to the Transport Department (TD), no such adverse effects had been observed. HO/MTRCL added that outsourcing was conducted to achieve cost-effectiveness. In deciding to conduct outsourcing, MTRCL would give regard to operational safety, service quality and impacts on staff, and the staff of contractors were also subject to high performance requirements. A stringent monitoring system was in place to ensure the performance of contractors, and MTRCL would regularly meet with them to follow up any problems that might arise.

30. As to outsourcing's impacts on staff, HO/MTRCL explained that MTRCL had undertaken to ensure that staff would not be made redundant as a result of outsourcing, and would regularly communicate with staff on outsourcing plans. Mr WONG Yuen-wood and Mr LAM Kwan-yui, however, pointed out that MTRCL had rejected requests from the staff unions they represented for a meeting to discuss outsourcing. Mr Jeffrey LAM urged MTRCL to make prompt improvements in communication with staff.

31. Mr LEE Cheuk-yan considered that outsourcing would affect service quality and rail safety on grounds that MTRCL's contractors would be more concerned about minimizing costs in order to secure service contracts by quoting low prices. Moreover, their staff might not be as adequately trained or experienced as MTRCL's own staff because of the former's high turnover as a result of lower wages. To maintain rail safety, he urged the Government to ensure that MTRCL would stop all outsourcing activities. He suggested that the Panel should continue to discuss this agenda item every month before the above undertaking was given.

32. USTH responded that outsourcing customer service centres at railway stations was not expected to impact on rail safety. Mr LEE Cheuk-yan, however, pointed out that when there were accidents at railway stations, all station staff, including those at customer service centres, would need to respond quickly to handle the incidents. Staff of contractors who had not received training in this regard would not be able to help. He also expressed concern that MTRCL had even contracted out the maintenance works of the Tseung Kwan O (TKO) Line. USTH responded that to ensure service quality, adequate training would also be provided to staff of contractors. As to the maintenance works of the TKO Line, the Administration was satisfied that the service quality was comparable to that of the maintenance works conducted by MTRCL staff. Mr LEE pointed out that as reported in the media, some electrical wiring had been stolen from the MTR tracks for the tunnel connecting Tung Chung and Sunny Bay Stations of the Tung Chung Line, and some MTRCL staff had claimed that this might have been caused by security loopholes arising from outsourcing. Ms LAU Choi-hung added that the Kwun Tong Line service disruption in December 2008 was caused by blunders committed in the course of outsourced maintenance activities of MTRCL.

How MTRCL staff's concerns should be followed up

33. Noting the grave discontent of the deputations and the cases they highlighted, the Deputy Chairman opined that such lack of trust between MTRCL and its staff might affect rail safety and hence public interests. To avoid this, he considered it necessary to further discuss this item to effectively address the various concerns of the staff unions such as reduced benefits, extended working hours and increased outsourcing. He also considered it necessary to invite the Secretary for Transport and Housing (STH) and the Chief Executive Officer of MTRCL to attend the relevant meeting. Mr Albert CHAN expressed support for the suggestion.

34. Mr Albert CHAN opined that the rail merger had resulted in monopoly for MTRCL. The Administration, on the other hand, seemed to be oblivious to the problems highlighted by the deputations, in particular MTRCL's suppression of trade union activities. To ensure rail safety, he considered it necessary for the Administration to directly intervene to tackle problems highlighted by the deputations, such as outsourcing of services to the detriment of staff's job security and rail safety, and uncontrolled salary increase of MTRCL's senior management while cutting junior staff's salaries.

35. USTH drew members' attention to MTRCL's good track record in service quality and rail safety. The Administration considered that staff's concerns about job protection and salary protection raised during the rail merger had been addressed by MTRCL, which had taken actions to honour the merger commitment. He considered that staff's concerns on certain aspects of work-related arrangements should be resolved through communication between MTRCL and its staff. As to the salary of MTRCL's management, it was set in accordance with the established mechanism.

36. Mr WONG Kwok-hing moved the following motion which was seconded by Ms LI Fung-ying and Mr WONG Sing-chi –

"強烈譴責政府未能嚴格監督港鐵履行合併時的承諾和港鐵歧視職工會的錯誤做法，促請本委員會把港鐵七間工會指控港鐵違反的事項歸納起來在本委員會逐一系列出跟進，以履行立法會監督合併後落實對員工的保障；並要求鄭汝樺局長和港鐵行政總裁周松崗出席上述跟進的會議。"

(Translation)

"That this Panel strongly condemns the Government for its failure to strictly monitor the fulfillment by MTRCL of the undertakings it made at the merger and MTRCL's wrongful discrimination against its staff unions; urges this Panel to summarize the allegations made by MTRCL's seven staff unions of MTRCL's breach of the undertakings and follow them up one by one, so as to perform the Legislative Council's role in monitoring how protection for staff is ensured after the merger; and requests the attendance of Ms Eva CHENG, the Secretary for Transport and Housing, and Mr C.K. CHOW, the Chief Executive Officer of MTRCL, at the meeting(s) to be held to follow up the above-mentioned matters."

37. The Chairman put the motion to vote. Six members voted in favour of the motion, and no member voted against it. The Chairman declared that the motion was passed.

Clerk 38. Mr WONG Kwok-hing requested the LegCo Secretariat to summarize the deputations' allegations in tabular form to facilitate follow-up discussion. Mr Albert CHAN further proposed that staff's concerns about outsourcing should be followed up first.

IV Review of the results from random breath testing

(LC Paper No.
CB(1)1982/08-09(06)

- Administration's paper on
review of the results from
random breath testing

LC Paper No. CB(1)1982/08-09(07)

Extract from the report of the
Bills Committee on Road Traffic
Legislation (Amendment) Bill
2008)

39. STH briefed members on the results of the random breath test (RBT) procedures conducted by the Police to combat drink driving and the way forward. Members noted that between February and May 2009, drink driving cases decreased by 37% and traffic accidents involving drink driving decreased by 65% compared with the same period in 2008. Members in general were satisfied that the RBT legislation and procedures had created a deterrent effect.

40. The Deputy Chairman expressed concern about the legislative proposals to further combat drink driving which the Administration would submit to the Panel for consultation in July 2009. He asked whether these would include a proposal to introduce a scale of penalties according to different levels of blood alcohol concentration (BAC). He considered that the sentence of disqualification which the court presently handed down was often not long enough to achieve sufficient deterrent effect. He opined that people who were

heavily drunk but still chose to drive should be subject to much higher penalties. He also enquired whether a new offence of dangerous driving causing grievous bodily harm would be introduced. Mr LEE Wing-tat expressed support for the need to introduce a scale of penalties according to different BAC levels.

41. STH responded that after studying overseas drink driving legislation, the Administration was considering to bring in 'aggravating factors' such as drink driving to all dangerous driving cases. She pointed out that in establishing a balanced and effective regulatory mechanism, penalties and education were equally important.

42. Ms LI Fung-ying asked whether enforcement statistics showed that drink driving was more common during festive seasons. The Chief Superintendent of Police (Traffic) (CSP(T)) replied that it was common during festive seasons and weekends. Territory-wide RBT operations (code named "Quick Chaser") were conducted during these periods while operations on a smaller scale were conducted on ordinary days. However, whether during festive seasons or not, drink driving occurred more between midnight and 0500 hours.

43. Ms LI Fung-ying enquired about the seriousness of drink driving among drivers of taxis and public light buses (PLBs) as gathered from the relevant enforcement figures. CSP(T) responded that no drink driving cases involving professional drivers on duty had been identified through RBTs. The Administration was nonetheless mindful that they were only conducting RBTs on a small portion of drivers and would continue to remind drivers, in particular professional drivers, not to drink before driving.

44. Mr Albert CHAN considered that the impact of disqualification on the livelihood of professional drivers and their families would be more serious than the impact of imposing the same penalty on people of other occupations and the rich. He opined that the imposition of disqualification penalties on professional drivers might have the effect of double penalty and discrimination in respect of occupation. He suggested that the Administration should consider introducing other penalties for professional drivers, such as fines or requiring them to receive alcohol treatment service on a mandatory basis.

45. STH responded that granting exemptions from disqualification for professional drivers could not be justified. Moreover, according to the enforcement statistics, most professional drivers had strictly observed the principle of not driving after drinking. The proportion of private cars involved in drink driving cases was the highest, taking up about 80% of the cases in 2009 so far. Meanwhile, as evidenced by the decrease in drink driving cases by 37% and traffic accidents involving drink driving by 65% between February and May 2009 compared with the same period in 2008, RBTs could effectively discourage drivers from drink driving. She added that when handing down

sentences, it was noted that the court would also consider the specific circumstances of individual cases, including the impact of the sentences on the livelihood of a professional driver.

46. Mr Albert CHAN was, however, concerned that as more RBTs were conducted, the number of professional drivers involved in drink driving might increase. As such, from a humanitarian point of view, there might be a need to provide more sentencing alternatives to the court to avoid indirectly penalizing professional drivers' families.

47. Mr LEE Wing-tat quoted a recently concluded court case of dangerous driving causing death that occurred in Sai Kung, where the sentence had been widely criticized as being too light. He opined that in many cases sentences handed down by the court did not have sufficient deterrent effect. In particular, the sentence of life disqualification had never been handed down. He considered that there might be a need for the relevant legislative proposals to introduce heavier penalties to achieve greater deterrent effect.

48. While agreeing to consider Mr LEE Wing-tat's views, STH explained that the quoted Sai Kung case happened before the Road Traffic Legislation (Amendment) Bill 2008 was enacted to raise the penalties for the offence of dangerous driving causing death. The judge adopted the then statutory maximum penalty as a starting point when meting out the sentence. She reiterated that the legislative proposals would be fair, appropriate and reasonable though effective, and the Administration would make sustained efforts in enforcement and public education to combat drink driving.

49. The Deputy Chairman urged the Administration to respond at the July meeting to the view about the undesirability of simultaneous implementation of the imprisonment and disqualification terms in the Sai Kung case, as the driver concerned might be able to drive again immediately after serving his imprisonment term. He considered it necessary for the Administration to introduce legislative amendments to prohibit the above arrangement, so as to ensure that disqualification would be meaningfully observed to prevent drivers who were more likely to cause potential danger to the public from driving for a prolonged period. STH undertook that the Administration would further study the practices in this regard in other common law jurisdictions.

V Recent fatal traffic accident in Mong Kok and safety of public light buses

(LC Paper No. CB(1)1982/08-09(08) - Administration's paper on report on traffic accident on Mong Kok Road on 12 June 2009

LC Paper No. CB(1)1982/08-09(09) - Press cuttings on the

- accident
- LC Paper No. CB(1)1984/08-09(02) - Correspondence between a member of the public and Taxi & P.L.B. Concern Group on the recent fatal traffic accident in Mong Kok, which has been copied to the Panel
- LC Paper No. CB(1)1984/08-09(03) - Submission on the recent fatal traffic accident in Mong Kok from a member of the public)

50. USTH briefed members on TD's preliminary findings on the fatal accident involving a green mini-bus (GMB) on Mong Kok Road on 12 June 2009, the proposed traffic management measures to improve the road conditions, and measures to enhance safety of PLB operations.

General views

51. Mr WONG Kwok-hing opined that speeding of GMBs was serious in Hong Kong and the Mong Kok accident was only the tip of the iceberg, and the Administration had defaulted its duty in regulating the safety of GMBs. In particular, the Administration should not allow GMBs to highlight their high speed in promotional materials. In reply to Mr WONG on actions taken to tackle speeding by PLBs, the Assistant Commissioner for Transport/Management & Paratransit (AC for T/M&P) said that TD had already liaised with the GMB operator concerned to ensure the removal of the relevant promotional materials.

52. Mr LEE Wing-tat expressed disappointment that despite discussion of the speeding problem of PLBs for years, little progress had been made to deter the reckless driving behaviour of PLB drivers. Mr Albert CHAN echoed his views, adding that the illegal and dangerous practice of red minibuses (RMBs) waiting for passengers at busy road junctions such as on Tai Ho Road was rarely acted upon notwithstanding repeated complaints. In his view, both TD and the Police should proactively take actions against such dangerous practices of PLBs to minimize accidents. USTH responded that in recognition of the stronger effect of self-regulation of the trade in tackling the problem, the Administration had been making efforts to convert RMBs into GMB operation where appropriate to help improve the overall safety of PLB operation. Meanwhile, the Administration was also adopting a three-pronged approach incorporating equipment enhancement, fleet management and enforcement for tackling the problem. Mr CHAN, however, commented that the conversion scheme could serve little purpose because GMBs would also speed.

Installations to monitor vehicle speed

53. Mr WONG Kwok-hing pointed out that the speed display devices (SDDs) on PLBs could serve little purpose as most PLBs continued to speed regardless of the warnings given by SDDs. There might be a need to explore the feasibility of requiring PLBs to install speed limiters instead. AC for T/M&P responded that SDDs mainly served warning purposes to enable passengers concerned to report PLB speeding cases to TD or the Police where necessary. However, since SDDs were calibrated at a speed of 80 kilometres but GMBs plying expressways might operate beyond 80 kilometres, GMBs might not be speeding even when the SDDs on them were giving warnings. As to speed limiters, the Administration would continue to explore with PLB suppliers the feasibility of installing them on existing PLBs.

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54. The Deputy Chairman expressed dissatisfaction with the lack of progress made by the Administration in exploring the installation of the "blackbox" (i.e. a vehicle monitoring system) and the speed limiter on PLBs. Highlighting the effectiveness of the above two devices in deterring undesirable driving behaviours, he expressed grave concern about the delay in mandating their installation. He urged the Administration to submit reports on further progress in this regard. Pointing out that the devices did not involve complex technology, he considered the reasons given in the Administration's paper for the delay unacceptable, as many goods vehicles had installed the devices as required by their insurance companies. Mr Albert CHAN also expressed concern about the lack of progress in mandating the installation of the two devices, and of reversing video devices on goods vehicles. He urged the Administration to be more proactive in handling matters affecting public safety.

55. USTH responded that the Administration took every accident seriously, and had already introduced certain improvement measures in the light of the preliminary findings of the relevant investigation even though it had yet to be determined whether the Mongkok accident had been caused by speeding. The Principal Transport Officer/Urban (PTO/U) supplemented that despite repeated efforts made to pursue the mandatory installation of the "blackbox" and the speed limiter, the "blackbox" presently available in the market could not fit into the operational characteristics of PLBs, which had to stop and start frequently, hence resulting in data loss and frequent malfunctioning. Notwithstanding, the Administration would continue its search for suitable "black boxes" and speed limiters that could be safely installed on PLBs.

56. In response to the Deputy Chairman's request for a timetable on the mandatory installation of the above two devices, USTH explained that there was a need to ascertain the feasibility of the above two devices before their installation timetables could be worked out. The Deputy Chairman was unconvinced. He reiterated the need for the Administration to provide

installation timetables for the above devices, and opined that the Administration should provide copies of its correspondences with the suppliers concerned for members' information. USTH responded that there might be difficulty in providing copies of the correspondences as they might contain commercially sensitive information.

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57. The Chairman opined that if the relevant installation timetables could be made available and looked reasonable, members might not insist on viewing the correspondences. The Deputy Chairman agreed but opined that should protection of public interests so require, commercial sensitivity should not be used as an excuse for not providing the requested information because the information could always be provided under confidential cover or after crossing out the confidential details.

58. Highlighting the use of exterior speed display lights, Mr WONG Kwok-hing urged the Administration to examine the feasibility of requiring PLBs to install the device and report back in due course. AC for T/M&P responded that the option might not be feasible because the exterior speed display lights were unable to accurately display the speeds at which the PLBs concerned were operating. Moreover, PLBs running on different routes were subject to different speed limits and there was difficulty in calibrating the exterior light at a speed limit that applied to all routes. As understood, Japan had once pursued such an option but had later given up. Mr WONG considered that the Administration should continue to examine the technicality of the option and further revert to the Panel.

Pay structure of PLB drivers

59. Mr WONG Kwok-hing sought information on the existing pay structure of PLB drivers to ascertain whether it would prompt them to maximize the number of trips for higher pay. AC for T/M&P responded that GMB operators were required under the Passenger Service Licence condition to ensure that all drivers were directly employed under proper employment contracts. As to the pay structure, the Administration noted that over 80% of PLB operators were remunerating their drivers with a basic salary plus bonus, and the maximum number of trips that could be operated by an individual driver per working shift was capped. In the case of the GMB route involved in the Mongkok accident, the maximum number of trips that could be operated by a driver during the relevant work shift of 10:30 pm to 6:30 am was capped at five, and normally the number of trips operated on this route was only three to four. The above arrangements were considered reasonable.

60. The Deputy Chairman opined that the Administration should not allow the PLB trade to adopt the above pay structure of drivers, which in his

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view would lure PLB drivers to speed. He urged the Administration to look into the pay structure and revert to the Panel. PTO/U responded that TD had been monitoring GMB operators to ensure that they were operating their GMB routes according to the relevant Passenger Service Licence conditions. Although no problem related to the pay structure of PLB drivers had been observed, the Administration would examine whether monitoring efforts in this regard should be geared up. Mr WONG Kwok-hing requested the Administration to provide further information on the pay structure, with the various components itemized and quantified in percentage terms.

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Enforcement

61. Mr LEE Wing-tat expressed concern about the adequacy of enforcement actions against speeding of PLB drivers, and enquired about the number of undercover operations conducted in this regard as well as details of the prosecution actions and penalties imposed. CSP(T) responded that between 8 and 21 June 2009, the Police had conducted a territory-wide campaign codenamed "Kickstarter" targetting at goods vehicles and public service vehicles and comprising publicity and public education as well as enforcement. During the enforcement stage of the campaign, 36 undercover police officers had been deployed on PLB routes trying to intercept speeding PLBs. However, due to the nature of the evidence to be collected and the fact that the SDDs on PLBs might not be accurately calibrated for evidence collection purpose, undercover police officers could only estimate the speed of the PLBs concerned, and take action depending on the driving behaviour of the driver such as careless driving. Notwithstanding, the above campaign had led to the prosecution of two PLBs drivers for careless driving and issue of 53 fixed penalty tickets to PLBs for speeding.

62. Noting the above outcomes of operations, Mr Albert CHAN expressed concern about the intelligence collection and action planning work of the Police. In his view, there should be little difficulty in identifying the routes on which PLBs were often found speeding. He said that it was common knowledge that PLBs plying Ching Cheung Road were always speeding.

63. CSP(T) responded that undercover operations were conducted on the basis of intelligence collected through the "Project Safe Ride" scheme, under which the Police had set up a dedicated 24-hour hotline for passengers riding on RMBs and GMBs to report the speeding and improper driving behaviour of frontline PLB drivers, and through reports made direct to Transport Complaint Unit Hotline. He then added that in the "Kickstarter" operation mentioned above, the Police had in fact issued 47 summonses and 288 fixed penalty tickets to PLB drivers for various offences. CSP(T) explained that although the Police were taking the problem of speeding by PLBs very seriously in recognition of public concern, undercover operations might not always result in issue of tickets

and summonses for speeding because not all PLB drivers would speed. Notwithstanding, ordinary speeding enforcement operations could also effectively help discourage PLB drivers from speeding because trade members would always warn each other when they became aware that such operations were being conducted. CSP(T) added that the Police had in total issued over 2 600 summonses and 8 000 fixed penalty tickets for various PLB offences in 2008.

Follow-up actions to prevent recurrence of the Mongkok accident

64. Highlighting the intensity of franchised bus/PLB activities in the vicinity of the location of the Mongkok accident, Mr Tommy CHEUNG enquired about plans to improve the bus/GMB stop arrangements along Mong Kok Road to prevent recurrence of the accident. USTH responded that TD had already examined the current junction layout and found that sufficient traffic management measures were already in place to ensure road safety. AC for T/M&P added that TD was nonetheless prepared to review the arrangements with a view to rationalizing the stopping activities there to facilitate further improvement. If the stop rationalization proposals were accepted, the footpath there could be widened, thereby releasing road spaces for improvement of the layout of the junction between Sai Yeung Choi Street South and Mong Kok Road for shifting the existing "Give Way" control forward, making it easier for the left turning traffic to enter the junction, and onto Mong Kok Road. When specific details were available, TD would brief the Yau Tsim Mong District Council and relevant bus companies in a bid to achieving a consensus on the final plan. In response to Mr CHEUNG, the Administration agreed to ensure that the necessary improvement works would be implemented within four months' time.

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65. At the suggestion of Mr LEE Wing-tat, the Chairman requested the Administration to submit reports at quarterly intervals on relevant issues including measures to enhance road safety for PLBs, in particular progress made by the Administration in exploring installations to monitor vehicle speed; and statistics of law enforcement and undercover operations conducted against speeding by PLB drivers.

Admin

VI Any other business

66. There being no other business, the meeting ended at 11:20 am.