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Panel on Manpower

**Updated background brief prepared by the Legislative Council Secretariat
for the meeting on 16 May 2017**

**Occupational safety of the Hong Kong-Zhuhai-Macao
Bridge local projects**

Purpose

This paper gives an account of the discussions by the Panel on Manpower ("the Panel") concerning the occupational safety of the construction of the Hong Kong-Zhuhai-Macao Bridge ("HZMB") local projects.

Background

2. HZMB is a dual three-lane carriageway in the form of bridge-cum-tunnel structure sea-crossing, linking Hong Kong, Zhuhai and Macao. The HZMB project is a major cross-boundary transport infrastructure project. The entire HZMB project consists of two parts: (a) the HZMB Main Bridge which is being taken forward by the HZMB Authority; and (b) the link roads and boundary crossing facilities under the responsibility of Hong Kong, Zhuhai and Macao separately. The Highways Department ("HyD") is responsible for implementing the HZMB related local projects, which include the Hong Kong Boundary Crossing Facilities ("HKBCF"), the Hong Kong Link Road ("HKLR") and the Tuen Mun - Chek Lap Kok Link ("TM-CLKL") (thereafter referred to as "HZMB local projects"). HKBCF, HKLR and TM-CLKL commenced construction in 2011, 2012 and 2013 respectively. According to the Administration, these various projects are facing different challenges during the construction stage. The contractors adopted different methods to overcome the challenges involved. The Administration has been reviewing the implementation of the HZMB local projects with a view to overcoming and tackling the difficulties concerned in a timely manner.

Deliberations of the Panel

3. In the light of the occurrence of a fatal accident on 29 March 2017 at a construction site of the HZMB local projects, the Panel hold a special meeting on 12 April 2017 to discuss the occupational safety condition concerning the construction of HZMB local related projects and the work of relevant government departments in this respect. The major views and concerns expressed by members are summarized below.

Occupational safety of the construction projects

4. Members noted that under the Occupational Safety and Health Ordinance (Cap. 509), employers/contractors must provide and maintain plants and systems of work that were, so far as reasonably practicable, safe and without risks to health. They should also provide such information, instruction, training and supervision that were necessary to ensure the health and safety at work of employees. Members, however, noted with grave concern that since the commencement of the HZMB project in 2011, the Labour Department ("LD") had recorded 275 industrial accidents and nine fatal accidents. Some members queried whether such accidents had occurred because employers/contractors sought to catch up with works progress at the expense of safe work practices and the Administration's monitoring measures failed to achieve its purposes. Members took a strong view that the Administration should conduct investigations into the causes of accidents and draw up preventive measures against unsafe work practices.

5. Members also noted that the HZMB local related projects were managed by HyD, while the consultants appointed by HyD were responsible for supervising and implementing the construction works. Concern was raised about the monitoring of contractors' safety performance and the specific enforcement actions taken against unsafe work practices.

6. The Administration advised that consequent upon the fatal accident on 29 March 2017, HyD had set up an Independent Investigation Task Force led by Deputy Director of Highways to investigate the possible causes of the accident to prevent recurrence of similar accidents and to develop improvement measures on site safety. The Task Force would submit a report to the Director of Highways in three months' time. Some initial investigation findings had been reported to relevant law enforcement departments for follow-up. This apart, LD had issued suspension notices to the contractors/employers concerned to suspend the associated work processes. The contractors/employers could not resume the work process until LD was satisfied that measures to abate the relevant risks had been taken. In addition, LD had issued Work Safety Alerts,

reminding the industry to take suitable safety precautionary measures to prevent recurrence of similar accidents.

7. According to the Administration, LD had been closely monitoring the occupational safety of the HZMB local projects. LD would conduct a thorough investigation to examine the causes of any industrial accident and the legal liabilities of duty holders. LD would urge the contractor concerned to make improvement and take enforcement actions as appropriate. Members were advised that given the commencement of various mega infrastructure projects in recent years, including the construction of HZMB, LD established a dedicated office in 2011 specifically tasked to inspect these projects and conducted related law enforcement work. Since the commencement of the works in 2011 till the first quarter of 2017, LD conducted a total of 1 384 inspections and issued 51 suspension notices and 230 improvement notices with 329 prosecutions initiated/taken. The number of days of works suspension resulted from the issuance of the suspension notices was 712 days.

8. In view of the remoteness of the HZMB construction sites, members expressed grave concern about the efficiency and capability of the contractors in implementing the contingency plans and rescue measures in case of major marine incidents. As regards the work safety of sea-based construction works, the Administration advised that apart from conducting surprise site inspections, LD had since 2014 conducted 28 joint enforcement operations with the Marine Department ("MD") to detect unsafe work practices near or over water. In addition, LD had organized with MD eight safety seminars on marine construction work safety for workers of the HZMB local projects in 2015 and 2016. Members were also advised that pursuant to the relevant occupational safety and health legislation, LD would urge employers/contractors to assess whether workers engaged in construction works adjacent to or over water were liable to fall with a risk of drowning, and to provide secure fencing and rescue equipment at workplaces with such risks. LD also required employers to ensure that their employees wore lifejackets if their work involved drowning hazards. In addition, LD and MD also established a notification mechanism to ensure timely follow-up on unsafe works near or over water of the HZMB construction.

9. Most members, however, remained concerned about the effectiveness of the Administration's work in addressing the series of construction fatalities in connection with the HZMB local projects.

Level of penalty

10. Most members called for the imposition of heavier penalty on convicted cases related to fatal industrial accidents in the construction industry so as to

increase the deterrent effect against non-compliance with the legislation related to occupational safety. The Administration advised that in a bid to raise the level of penalty for non-compliance with safety requirements, LD submitted comprehensive information to the court for reference in sentencing. Such information included the serious consequences arising from the accidents in question, the upward trend of the number of accidents concerned, and the highest penalty imposed on similar past cases, etc. Depending on the circumstances of individual cases, LD would request the Department of Justice to consider filing a review or an appeal to the court in respect of the conviction and the penalty when necessary, to enhance the deterrent effect. The fines imposed by the court on convicted cases related to fatal industrial accidents in the construction industry had increased notably in recent years when compared with the past.

11. Some members pointed out that after the occurrence of an accident, HyD would only record in its reports if the contractors concerned were found to have violation of statutory or contractual requirements. They considered that the penalties were too lenient to achieve any deterrence effect. These members suggested and that more weighting should be given to the safety performance of individual contractors in assessing their future tenders for public works contracts. In this connection, the Panel passed a motion at the special meeting on 12 April 2017 urging the Government to increase the penalties by forbidding the companies concerned to tender in government contracts for one year after the occurrence of a fatal accident, and to introduce legislative amendments to subject those consultants and contractors who were found to be negligent in their safety performance to criminal liability so as to further enhance the deterrence effect.

12. The Panel will hold another meeting on 16 May 2017 to receive public views and further discuss with the Administration the occupational safety of the construction of the HZMB local projects.

Relevant papers

13. A list of the relevant papers on the LegCo website is in the **Appendix**.

**Relevant papers on
occupational safety of the Hong Kong-Zhuhai-Macao
Bridge local projects**

Committee	Date of meeting	Paper
Panel on Manpower	18.12.2012 (Item IV)	Agenda Minutes
Legislative Council	12.11.2014	Official Record of Proceedings (Question 6)
Panel on Manpower	16.6.2015 (Item IV)	Agenda Minutes
Panel on Manpower	17.11.2015 (Item IV)	Agenda Minutes
Panel on Manpower	21.6.2016 (Item III)	Agenda Minutes
Panel on Manpower	23.1.2017 (Item III)	Agenda Minutes
Panel on Manpower	12.4.2017 (Item I)	Agenda