

LCQ1: Support to Hong Kong-owned enterprises regarding Labour Contract Law

Following is an oral reply by the Secretary for Commerce and Economic Development, Mr Frederick Ma, to a question by the Hon Sophie Leung in the Legislative Council today (July 9):

Question :

In early May this year, the State Council promulgated the Draft Implementation Regulations of the Labour Contract Law ("the Draft Regulations") and consulted the public on the Draft Regulations. I have learnt that the Government of the Hong Kong Special Administrative Region ("HKSAR") has also gauged the views of various trades and industries on the Draft Regulations through different channels and relayed them to the mainland authorities concerned. In this connection, will the Government inform this Council:

(a) of the channels through which or the means by which the HKSAR Government has gauged the views of the factory operators, in particular Hong Kong businessmen who have investments on the Mainland, and the sectors concerned on the above Draft Regulations;

(b) of the total number of comments on the Draft Regulations received so far by the HKSAR Government and how it has dealt with such comments; according to such comments, what problems the Labour Contract Law has created for the factory operators concerned; and

(c) apart from setting up the "Task Force to Support the Processing Trade", whether the HKSAR Government will, focusing on the impact of the Labour Contract Law on the factory operators, formulate long-term measures and policies to support the factory operators concerned?

Reply :

Madam President,

(a) The Labour Contract Law of the People's Republic of China came into effect on January 1 this year. The HKSAR Government is aware of the significant impact of the Law on Hong Kong-owned enterprises in the Mainland, and has therefore been in close liaison with the trade through various means during the drafting, consultation and implementation of the Law, and reflected their views to the Mainland authorities.

The Legislative Affairs Office of the State Council issued the Draft Implementation Regulations of the Labour Contract Law on May 8 for public consultation. The HKSAR Government took proactive actions to inform the trade at once of the consultation exercise and collect their views through different means, including letters to major trade associations, websites, emails and the "Task Force to Support the Processing Trade" etc.

(b) We have received submissions from 10 trade associations, as well as a submission consolidated by the office of the Honourable Mrs Sophie Leung, and have relayed them to the relevant Mainland authorities. We have also received submissions made to the Legislative Affairs Office and copied to the HKSAR Government.

We understand the major concerns of Hong Kong-owned enterprises are mainly the increase in labour costs, reduction in enterprises' flexibility in managing human resources, and the operational problems encountered in complying with the Law. The trade has also raised problems related to the compatibility of the Labour Contract Law with existing legislations (such as those on social security), the lack of flexibility of some requirements (such as the limitations on overtime and working hours), as well as the lack of clarity in calculating severance payments and in terminating non-fixed term labour contracts etc. The trade also hopes that longer adaptation and transition periods could be provided in the formulation or adjustment of policies. We have reflected the above views to the relevant Central authorities.

(c) Besides the "Task Force to Support the Processing Trade", Government has been, through different channels, actively reflecting the views of the trade to the relevant Mainland authorities during the various stages of consultation of the Labour Contract Law. Some of the views have been accepted. We will continue to liaise with the relevant Mainland authorities to reflect the trade's views, and assist the trade to understand the Labour Contract Law. For example, after implementation of the Law, we have organised a number of exchange sessions and seminars.

Madam President, the objective of the Labour Contract Law is to provide greater protection to the working population in the Mainland. The Labour Contract Law is an important national policy and it follows the general trend of our country's development. I call on Hong Kong-owned enterprises to facilitate its implementation, rather than to hope for its withdrawal or non-implementation. In fact, in the past 30 years, our businessmen have been the Mainland's main investor and have actively followed the country's strategy in economic development, resulting in unprecedented success of the reform and opening up of the Mainland. I

am sure that they will continue to actively support the national policy regarding the Labour Contract Law. I understand some Hong Kong-owned enterprises would like to see more certain and clearer implementation details of the Law. I therefore urge the Mainland authorities to take into account the interest of Hong Kong-owned enterprises in implementing the policy, adopt an incremental approach and strike a good balance in protecting the interests of both the employers and employees. Most importantly, it will be necessary to strengthen publicity and education of local governments, enterprises and workers, and enhance the supporting measures. In this respect, the HKSAR Government will continue to liaise with various parties, and will actively reflect the problems encountered by Hong Kong businessmen to Mainland officials.

Ends/Wednesday, July 9, 2008