

立法會
Legislative Council

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Panel on Commerce and Industry

Minutes of Special Meeting
held on Tuesday, 26 June 2001, at 10:45 am
in Conference Room A of the Legislative Council Building

- Members present** : Hon Kenneth TING Woo-shou, JP (Chairman)
Hon HUI Cheung-ching (Deputy Chairman)
Dr Hon LUI Ming-wah, JP
Hon NG Leung-sing
Hon Mrs Selina CHOW LIANG Shuk-ye, JP
Hon CHAN Kam-lam
Hon SIN Chung-kai
Hon CHOY So-yuk
Hon Henry WU King-cheong, BBS
- Non-Panel Members attending** : Hon Eric LI Ka-cheung, JP
Hon Audrey EU Yuet-mee, SC, JP
- Members absent** : Prof Hon NG Ching-fai
Hon CHEUNG Man-kwong
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
- Public officers attending** : **For Item II**

Mr Francis HO
Commissioner for Innovation and Technology

Miss Agnes WONG
Assistant Commissioner for Innovation and
Technology (Infrastructure)

For Items III, IV & V

Mr Kenneth MAK
Deputy Secretary for Commerce and Industry

Mr Philip CHAN
Principal Assistant Secretary for Commerce and
Industry

For Item III

Mr Peter CHEUNG
Deputy Director of Intellectual Property

Ms Maria NG
Senior Solicitor

For Item IV

Mr Vincent POON
Assistant Commissioner of Customs and Excise

Mr William CHOW
Senior Superintendent, Intellectual Property
Investigation Bureau, Customs and Excise
Department

For Item V

Mr Simon WONG
Assistant Commissioner of Customs and Excise

**Attendance by
invitation**

: For Item V

Mr Justine YUE
Chief Executive Officer, Tradelink Electronic
Commerce Limited

Customs & Excise Dutiable Commodities Customer
Liaison Group

Mr Albert LAM Kwok-fai
Administration Manager, Nanyang Brothers Tobacco
Co. Ltd. (Spokesperson)

Mr MO Ying-chun
Deputy General Manager, Hai Luen Trading Co. (HK)
Ltd.

Mr Garrick MAK Yuk-tong
Finance Director, Maxxium China Limited

Mr Raymond LO Man-kin
Operations Manager, King Power Duty Free Co. Ltd.

Clerk in attendance : Mrs Florence LAM
Chief Assistant Secretary (1)4

Staff in attendance : Mr TSANG Siu-cheung
Senior Assistant Secretary (1)7

I Panel Report for 2000-01 for submission to the Legislative Council
(LC Paper No. CB(1)1588/00-01(01))

Members endorsed the above draft report, which would be submitted to the Legislative Council on 4 July 2001.

II Funding arrangement for Science Park, Phase II
(LC Paper No. CB(1)1588/00-01(02))

2. The Commissioner for Innovation and Technology (CIT) briefed members on the proposed funding arrangements for Science Park, Phase II. Details were set out in the information paper provided by the Administration (LC Paper No. CB(1)1588/00-01(02)).

3. Mrs Selina CHOW asked the Administration to provide a comparison on the construction costs of Phases I and II of the Science Park. She supported in principle the Hong Kong Science and Technology Parks Corporation (HKSTPC) in setting up an in-house professional team to assist its Board of Directors and Projects and Facilities Committee in steering and monitoring the overall development of Phase II and considered it a flexible arrangement. To avoid overlapping in the functions and responsibilities of the professional team, she hoped that the Administration could provide information on the composition of the professional team.

4. In response, CIT advised that due to the difference in time and calculation bases, it was difficult to draw a direct comparison of the construction costs of the two Phases. He explained that as Phase II was not a project under the Public Works Programme, the Architectural Services Department (ArchSD) would not

be responsible for its construction process. Hence, HKSTPC had to undertake some of the expenses, such as project management fees. Moreover, Phase II would accommodate biotechnology-based development for which Phase I had not catered. Given the need to provide infrastructure facilities such as laboratory and sewage treatment facilities, the construction cost of Phase II would be comparatively higher. He pointed out that the in-house professional team to be set up by HKSTPC would consist of five to six members, presumably from the civil engineering and construction professions.

5. On the comparison of construction costs, the Assistant Commissioner for Innovation and Technology (Infrastructure) (ACIT(I)) advised that Science Park Phase II would have a gross floor area of 95 500 square metres and the construction cost was estimated to be about \$3,900 million, while the respective figures of Phase I were 109 400 square metres and \$3,700 million. She advised that the construction costs of both phases were calculated at money-of-the-day (MOD) prices.

6. CIT stressed that although the construction cost of Phase II was higher than that of Phase I, it would be more appropriate and effective to promote its business if HKSTPC was given direct control over the overall development, design, management and marketing of the Science Park.

7. Mr NG Leung-sing enquired whether the construction work of the Science Park could be completed on schedule. Among the 42 applications received so far for admission to the Science Park, he further enquired about the country where most admission applications came from and the major type of technology development involved. In reply, CIT said that by and large, the construction work could be completed on schedule. As the demand for lettable space was greater than supply, he hoped that individual applicants could tie in their admission with the construction and completion schedules of the Science Park as far as possible. Regarding the nature of technology development of individual applicants, he pointed out that electronic and information technologies were most popular. He hoped that from Phase II onwards, the Science Park could attract more tenants from biotechnology and precision engineering sectors for carrying out their research and development work.

8. ACIT(I) supplemented with a breakdown of the 42 applications received for admission to the Science Park as at the end of May 2001 by their business nature:

Electronic technology	(60%)
Information technology	(20%)
Biotechnology	(12%)
Precision engineering	(8%)

Among the applicants, 57% were local companies and 29% were United States (US) companies, with the rest of them coming from Taiwan, Japan, Canada and Finland. Out of the 10 applications already approved, six were engaged in electronic technology and two in information technology, while the remaining two belonged to the biotechnology and precision engineering sectors. These 10 applications were submitted by five Hong Kong companies, four US companies and one Canadian company respectively.

9. Mr NG Leung-sing enquired whether the companies admitted to the Science Park had disclosed their human resources plans in Hong Kong. ACIT(I) advised that each applicant company for admission to the Science Park had submitted its local human resources plan for the next three years. The information indicated a general growth in human resources.

10. Mr NG Leung-sing wished to know whether HKSTPC would retain its present name or change to a new one to avoid confusion. CIT advised that HKSTPC was established on 7 May 2001 under Hong Kong Science and Technology Parks Corporation Ordinance by merging the Hong Kong Industrial Estates Corporation, the Hong Kong Industrial Technology Centre Corporation and the Provisional Hong Kong Science Park Company Limited. The authorities concerned were still considering whether it was necessary to make appropriate changes to the name.

11. Given that the construction of Science Park, Phase II would be under the direct control of a consultant firm instead of the ArchSD, Dr LUI Ming-wah suggested that the Administration should strengthen project supervision for quality assurance. Besides, given that the development of some technology-based enterprises might eventually reach saturation, he enquired whether the Administration would introduce some forms of mechanism to review and assess the need to require such enterprises to move out of the Science Park after a certain period of time so that space and facilities could be vacated for further development of other technology-based enterprises. CIT said that the Administration would closely monitor the quality of construction works of the Science Park. He emphasized that the construction of the Science Park aimed at bringing together related enterprises for concerted development, rather than providing them with suitable business incubation programmes. However, he agreed that for those technology-based enterprises which had lost their developing edge in time or no longer met the admission requirements, the HKSTPC would consider whether their lease should be continued or not. He said that the Administration would take into account Dr LUI's suggestion.

12. Mr HUI Cheung-ching enquired whether the Administration would carry out studies to assess the on-going demand of technology-based enterprises for rented premises and facilities in the Science Park. CIT replied that it was very difficult to assess the situation which Mr HUI had mentioned at this stage. Nevertheless, he believed that a solution was to provide technology-based

enterprises with space and facilities in phases for their development. He assured members that HKSTPC would continue to solicit prospective local and overseas tenants, with a view to converging the momentum for the development of technology-based enterprises.

13. Mr SIN Chung-kai asked whether the financial arrangement for Science Park, Phase II would facilitate its development in both economic and financial terms. CIT replied in the affirmative and said that the combination of equity and loan in the ratio of 70:30 proposed at present was a more balanced funding arrangement which allowed the Government and HKSTPC to share the fruit and the risk concerned. According to the projection detailed in the Annex of the Administration's paper, HKSTPC would have a repayment over \$100 million to the Government annually from 2000 to 2007. In the long run, he hoped that HKSTPC could achieve good returns, thus allowing the Government to share its profit.

14. Mr SIN Chung-kai enquired about the basis for setting the interest rate at 5.5% as mentioned in Note 3 of the Annex to the Administration's paper. ACIT(I) advised that according to the "no-gain-no-loss" principle adopted by the Government, the interest rate was set at two percentage points below the prime rate at the time when the paper was prepared.

15. While expressing support for the construction of Science Park, Phase II, Mr CHAN Kam-lam enquired whether the Administration could provide an estimate on the total amount of investment and production output of the enterprises admitted in Phase I. CIT replied that unlike the asset-intensive manufacturing industry, the technology-based industry was knowledge-intensive in nature, and was therefore difficult to quantify its total amount of investment and production output. Nevertheless, he would try to gather the relevant information.

(Post-meeting note: Information on the amount of investment made by Science Park tenants provided by CIT was circulated to members for reference vide LC Paper No. CB(1) 1693/00-01 on 4 July 2001.)

16. Mr CHAN Kam-lam asked whether the technological products developed in the Science Park would be produced locally or in overseas countries such as the United States and China. CIT replied that as the local production cost was on the high side, he reckoned that downstream enterprises in general would conduct technological research and development work in Hong Kong while the production process would be carried out in places outside the territory, such as the Mainland China. He stressed that the construction of the Science Park would be a step forward in providing technology-based enterprises with a business-friendly environment to complement the other advantages Hong Kong presently enjoyed, such as the protection of intellectual property and favourable supporting facilities (e.g. information and transportation support). Therefore, he believed that some high-value technology-based enterprises would base their

production in Hong Kong. The production and manufacturing of optical fibre was an example.

17. The Chairman enquired whether the Administration had considered importing professionals to support the development of the Science Park. CIT understood that at present, the HKSTPC had already liaised with the Immigration Department to expedite processing applications from the Science Park tenants for importation of talents to facilitate their business development. Moreover, the HKSTPC now considered establishing a secondment mechanism with the universities under which local talents would be given the opportunity to participate in the technology development engaged by the Science Park tenants.

18. As the proposed funding arrangements of Science Park, Phase II would be submitted to the Finance Committee for consideration and approval at its meeting scheduled for 6 July 2001, Mrs Selina CHOW requested the Administration to provide more details on the construction costs of Phases I and II of the Science Park before the meeting. CIT undertook to follow up on her request.

(Post-meeting note: Information on the construction cost of Science Park, Phase II and its comparison with that of Phase I provided by CIT was circulated to members for reference vide LC Paper No. CB(1) 1693/00-01 on 4 July 2001.)

III Proposal to liberalize parallel importation of computer software (LC Paper No. CB(1)1588/00-01(03))

19. The Deputy Secretary for Commerce and Industry (DSCI) briefed members on the proposal to liberalize parallel importation of computer software. Details were set out in the information paper provided by the Administration (LC Paper No. CB(1)1588/00-01(03)).

20. While expressing support for the Administration's proposal to liberalize parallel importation of computer software, Mrs Selina CHOW had reservation on extending the scope of liberalization to film and music products. Given that the copyright issue of the latter and the impact of parallel importation of such products on the market were more controversial, she called for prudence over the matter. As for the groups which opposed the parallel importation of computer software (e.g. software distributors who had allocated resources to the provision of value-added services such as training), she asked whether the Administration had assessed the impact of the liberalization measures on them. DSCI advised that the Administration had not made any formal assessments on the impact as enquired. He believed that liberalizing the parallel importation of computer software would introduce competition to the software market and exert downward pressure on the software prices. However, he opined that those software distributors providing training courses on non-mainstream software would, to a certain extent, continue to enjoy a competitive edge in the market.

21. Mr CHAN Kam-lam pointed out that the rationale behind to liberalize parallel importation of computer software was to avoid monopoly in the software market and protect consumer's interests. Apart from liberalizing parallel importation of computer software, he enquired whether the Administration would consider reviewing the terms of the service agreement of individual software, so as to strike a balance between consumer rights and the interests of software copyright owners. DSCI responded that to the best of his understanding, the Administration had not reviewed any software service agreement at this stage. However, he undertook to refer the issue to the Information Technology and Broadcasting Bureau and the Consumer Council for necessary follow up.

22. Ms Audrey EU asked whether the Administration would consider applying the liberalization measures to parallel importation of commodities (e.g. medicines) other than computer software. DSCI said that such measures only applied to computer software at this stage and the Administration would examine whether they would be extended to cover other commodities in future.

23. Mr SIN Chung-kai suggested that apart from examining whether the liberalization measures could be applied to commodities other than film and music products, the Administration should also consider further shortening the time restriction on the parallel importation of film and music products.

24. Mr HUI Cheung-ching enquired whether the Administration had assessed the impact of parallel importation of computer software and whether it had received any complaints in this respect. In reply, DSCI advised that relevant measures would bring about market competition, resulting in lower software prices which would benefit all industries using software products. It was expected that the measures would affect software distributors most because lower software prices would cut back their profit. He also pointed out that no complaint had been received so far. Only individual software distributors had expressed anxiety over the possible impact of parallel importation of computer software.

25. The Chairman concluded that while supporting the proposal to liberalize parallel importation of computer software, members considered that the Administration should examine the proposal in detail and act with prudence.

IV Proposal to license stamper manufacturers (LC Paper No. CB(1)1588/00-01(04))

26. DSCI briefed members on the Administration's proposal to license stamper manufacturers. Details were set out in the information paper provided by the Administration ((LC Paper No. CB(1)1588/00-01(04)).

27. Mr CHAN Kam-lam expressed his support for the Administration's proposal to license stamper manufacturers. He enquired whether the Administration had considered regulating other modes of replication besides production of stampers to combat infringing activities involving pirated optical discs. DSCI advised that introducing new legislation to regulate other modes of replication at this stage was deemed unnecessary. He pointed out that regardless of the modes of replication, illegal reproduction itself was an infringing act which would be dealt with according to law by the Customs and Excise Department (CED). He stressed that as a result of the CED's vigorous raids, large-scale local production lines of pirated optical discs had already been cracked down, leaving behind only those production workshops operating in a domestic scale.

28. Mr CHAN Kam-lam asked whether the CED had seized any pirated optical discs reproduced by compact disc writers and the number of cases concerned. In reply, the Assistant Commissioner of Customs and Excise (AC/CE) advised that the CED would provide relevant information for members' reference after the meeting. According to past experience, most of the pirated optical discs (about 90%) seized during the CED's raids were reproduced by compact disc writers.

29. Mr Henry WU enquired about the basis for determining the licence and renewal fees mentioned in paragraph 10. AC/CE replied that the fees were calculated according to the administrative and inspection costs.

30. While supporting the Administration's proposal to license stamper manufacturers, Miss CHOY So-yuk wondered if any measures would be adopted after the implementation of the proposal to assist the manufacturers in verifying the authenticity of stampers so that they would not be caught unaware. In response, DSCI said the Administration had discussed the issue with the major copyright owners in Hong Kong such as the trade associations relating to films and music products, and had secured their promise to provide assistance in verifying the authenticity of authorizations. AC/CE supplemented that the CED was discussing with the National Copyright Administration (NCA) in the Mainland with a view to reaching an agreement on providing assistance in the verification of authorizations to combat the replication of infringing optical discs.

31. Miss CHOY So-yuk stressed that the Administration must put in place a stringent verification system to root out the production of infringing optical discs. She also enquired whether such a system had already been established. DSCI advised that according to international conventions, registration was not a prerequisite for copyright protection. Even if a registration system was in place, it should be operated on a voluntary basis.

32. Mrs Selina CHOW advised that the Administration should speed up the process for reaching an agreement with the NCA to address the problem of verifying copyright authorization. She also hoped that the licence and renewal

fees concerned could be lowered in the long run for the benefit of the affected stamper manufacturers. DSCI responded that the present renewal fee was only half of the original rate but would examine and consider for a further reduction. Regarding the agreement with the NCA, AC/CE advised that it had been submitted to the State Council of China for approval. The CED would implement the proposal once the approval was granted.

33. Mr SIN Chung-kai said that as far as he knew, there were several registration systems and authorization bodies under the US copyright law, which Hong Kong could use for reference. He suggested that the Administration could draw on the experience of the US practice.

V Proposed Commencement of the Dutiable Commodities (Amendment) Regulation 2001

- (LC Paper No. CB(1)1577/00-01(01) -- Information paper provided by the Administration
- LC Paper No. CB(1)1588/00-01(05) -- Submission from the Customs & Excise Dutiable Commodities Customer Liaison Group)

34. Mr Albert LAM, the spokesperson of the Customs & Excise Dutiable Commodities Customer Liaison Group presented his views on the following three respects:

(a) Charges

The Customs & Excise Dutiable Commodities Customer Liaison Group (The Liaison Group) questioned the basis for determining the fees for submitting applications for dutiable commodities permits (DCPs) in electronic form. They considered that the charging system lacked transparency. The Liaison Group further opined that instead of cutting the operating costs of the industry, this proposal would give rise to extra costs and undermined the traders' competitiveness. Though Tradelink Electronic Commerce Limited (Tradelink) had adjusted the fees at the request of the industry, the Liaison Group urged the Administration to consider the actual affordability of the industry when implementing the proposal, and to explore actively the feasibility of waiving the fees concerned in order to maintain the commercial viability of the industry.

(b) Technology

The Liaison Group considered the seminars and talks held by Tradelink not well organized. Besides, the contents were too

simple for the industry to fully comprehend and grasp the overall operation of the charging system. Although Tradelink had launched a pilot project on making electronic DCP applications, it did not follow up the problems occurred and seek solutions accordingly. As the Liaison Group had no confidence in Tradelink's technical support, it expected that the Administration would strengthen its supervision of Tradelink's technology standards and actual operation to ensure the smooth operation of the system.

(c) Monitoring

The Liaison Group opined that the Administration should ensure the stability of the electronic DCP application system and formulate a detailed contingency plan for sudden service breakdown. It also suggested that the working group concerned should monitor the system's operation continuously and conduct regular reviews. Communication with the industry should also be strengthened so as to gather views and find ways of improvements.

35. In response to the views of the Liaison Group, DSCI said that the Administration had always been aware of the industry's grave concern over the charges of making electronic DCP applications. It hoped that the fees determined by Tradelink would be acceptable to the industry in general. He pointed out that the Administration had not formally approved the proposed fees at this stage. Under the franchise agreement between the Government and Tradelink, the return rate of Tradelink could not exceed 18% over the seven-year franchise period. As the proposed fees of DCPs and other services could only generate an estimated return of about 9%, Tradelink's profit level would not exceed the agreed percentage. The return brought by DCPs alone would be about 3% (based on the fees of \$25 for each Ship Stores Permit (SSP) and \$40 for each of other permits).

36. DSCI explained that in order to offset the investment made by Tradelink in front-end computer system for processing DCPs by electronic means, the proposed fees were determined according to the user-pays principle. The Government would continue to provide back-end computer system free of charge. Based on the existing cost of processing DCPs manually, the cost of each DCP was \$120. From this point of view, the industry was being subsidized by taxpayers. He stressed that processing DCPs by electronic means was more efficient than manual operation. The application time would be shortened significantly from two days to half a day. In addition, the system accepted applications every day from 7:00 am to 11:00 pm, which would provide more convenience to the industry. As such, the Administration considered the proposed fees reasonable.

37. On the technical front, DSCI highlighted the responsibility of the Administration to supervise and ensure the smooth implementation of electronic DCP applications. He pointed out that the electronic services provided by Tradelink for the other four categories of documents were so far doing well and a great deal of experience had been gained. He undertook that if there was anything wrong with the electronic processing of DCP applications, the Administration would examine the situation with Tradelink as soon as possible and would consult the industry for a solution. He stressed that during the specified transitional period after the Commencement of the Dutiable Commodities (Amendment) Regulation 2001, individual enterprises could, having considered their own needs, choose whether to apply for DCPs in electronic form immediately or continue to use the paper mode.

38. Mr Justine YUE, the Chief Executive Officer of Tradelink Electronic Commerce Limited, denied that the proposed fees lacked transparency as Tradelink had submitted extensive supporting data to the Administration beforehand. He pointed out that only with the fees proposed at present and the expected growth of services could Tradelink achieve the projected profit level within the next five years. As the five-year return period exceeded Tradelink's franchise period which would end in 2003, Tradelink had in fact taken great risks. If the Government brought in other competitors at that time, Tradelink might suffer losses due to a reduction in market share. In the technical aspect, Tradelink had provided similar electronic services since 1997 and had gained considerable hands-on operational experience. Moreover, the contingency system concerned was subjected to frequent testing and it met the recognized standard required by the Government. As there was no need to activate the contingency system so far, he believed that the existing technology was sufficient to ensure normal operation of the system. He advised that Tradelink had consulted the industry extensively on its electronic system and all the problems found during the testing process had been solved. He stressed that the problem Tradelink faced at present was the technical support for individual customers such as the ways to link individual customers' platforms with that of Tradelink to increase the efficiency of the electronic processing of DCP applications. Tradelink was willing to provide assistance in this regard. As the services concerned would be launched in July, Tradelink had strengthened communication with its customers and organized additional seminars. He said that over 100 customers had indicated interest in using Tradelink's service to apply for DCPs by electronic means. Tradelink also intended to provide some incentives for early customers, such as offering free electronic services in the first two to three months to familiarize them with the operation of the system. Mr YUE advised that at present, 10 customers were assisting in the final testing of the system to ensure its smooth operation.

39. Mrs Selina CHOW queried whether Tradelink had consulted the industry extensively on the system and obtained its general support. She was worried that the launch and the use of the system would bring unnecessary additional expenses to the industry and increase its operating costs. In her opinion, the

Administration should not force the industry to use the system before it was totally error-free. DSCI clarified that the Administration had consulted the industry all along and the Liaison Group had also participated in the discussion concerned. As regards to the charges, Tradelink had already lowered its original proposed fees at the request of the industry. He emphasized that Tradelink had not withheld the process or contents of its consultation with the industry. He explained that as the present legislation only allowed the application of DCPs in paper mode, it was necessary to amend the existing legislation so that application could be made in either electronic or paper mode. He stressed that the industry had absolute freedom to choose whether to apply in electronic mode or not. He further estimated that after the introduction of the electronic mode of application, the fees to be paid by over 80% of the enterprises would be less than \$4,000 each year. Based on last year's figures, each enterprise would have to pay about \$800 in average every year. He pointed out that this plan might have a greater financial impact on the enterprises which had to apply for a lot of permits, such as those providing marine supplies.

40. The Chairman said he had an impression that the Administration had already obtained the support and consensus of the industry in its earlier consultation. However, judging from the present reaction of the industry, it seemed that the plan had not been widely accepted.

41. DSCI advised that the electronic processing of DCP applications aimed at enhancing the efficiency of the application process instead of making excuses to increase the operating costs of the industry. He reiterated that Tradelink only sought to offset its investments, particularly those in computer hardware, by charging reasonable fees.

42. Due to insufficient time, Mr SIN Chung-kai opposed in principle the proposal to commence the Dutiable Commodities (Amendment) Regulation 2001 on 20 July. He considered that the "user-pays" principle upheld by the Administration lacked uniform criteria and justifications.

43. Mr MO Ying-chun, the representative of the Customs & Excise Dutiable Commodities Customer Liaison Group, considered that the fee increase was not proportionate to the efficiency it could enhance. He said that according to last year's experience and the present fee proposal, his company had to pay an extra fee of about \$200,000 for making electronic DCP applications. Therefore, he believed that the Administration had to review the fees to avoid adding to the industry's operating costs, which would result in unnecessary financial pressure.

VI Any other business

44. There being no other business, the meeting ended at 1:00 pm.