

## **Chapter IV : Commerce and Industry**

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4.1 At the invitation of the Chairman, the Secretary for Commerce and Industry (SCI), Mr CHAU Tak-hay, gave a presentation highlighting the major tasks under his policy programme areas in 2002-03 (Appendix V-3).

### **Protection of intellectual property rights**

4.2 In reply to Mr Howard YOUNG enquiry about measures to allay overseas manufacturers' concern about local rampant copyright piracy problem, SCI said that the Government had made considerable achievements on various fronts in protecting intellectual property rights in recent years. These were evidenced by the tremendous reduction in piracy activities at all levels and the recognition by the international community on the Government's dedicated efforts, including the United States which had removed Hong Kong from the "Special 301 Watch List". The Commissioner of Customs and Excise (C of C&E) supplemented that the special task force continued its effective operations against copyright piracy in 2001 and additional resources were deployed for undertaking special raiding actions targeted at the syndicate, production and retail levels. As a result, the number of seizures had increased substantially, 44 large production centres had been stamped out, and retail black spots had significantly reduced to 130 which operated in much shorter hours.

4.3 On combating piracy of computer games software, C of C&E stressed that the problem was subject to the same vigorous enforcement actions as other copyright piracy activities. However, due to the enormous number of the games titles, Customs and Excise Department often encountered difficulties in identifying the concerned copyright owners. Hence, prosecution had not been very effective. The Department had been working in partnership with trade associations in the software industry and would further strengthen cooperation with them in combating computer software piracy. Moreover, to facilitate prosecution of computer piracy activities, more resources had been allocated for related staff training and enhancing the Department's capability in collecting relevant evidence for pursuing prosecution.

4.4 Mr SIN Chung-kai expressed concern about growing piracy acts relating to circumvention of copy-protection measures used in computer games software. He cast doubt on the effectiveness of section 273 of the Copyright Ordinance (CO) (Cap. 528) which aimed at suppressing devices designed to circumvent copy-protection measures. The Deputy Secretary for Commerce and Industry(2) (DS(CI)2) clarified that section 273 of CO only provide civil remedies

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for copyright owners against persons involved in acts of sale or production of devices to circumvent copy-protection measures. He added that the computer software industry had called on the Administration to consider imposing criminal sanction for such acts. While the Administration would consider the industry's view, no decision had been reached.

### **Consultancy studies commissioned by the Commerce and Industry Bureau**

4.5 Noting that Commerce and Industry Bureau (CIB) had commissioned 27 consultancy studies on policy making and assessment in 2001-02 and there were plans to engage another 23 studies in 2002-03, Ms Emily LAU queried the need for undertaking such large number of consultancy studies and asked whether the Government had put in place mechanism to monitor the conduct of consultancy studies. She further opined that reports of consultancy studies should be disclosed to enhance transparency and to ensure that the provisions were well spent. SCI clarified that some of the studies were commenced in previous years but concluded in 2001-02 and 2002-03. The majority of these studies were not directly undertaken by CIB. Most of the studies conducted under Head 152 were undertaken in conjunction with other bureaux and departments under the Helping Business Programme (HBP) for the policy initiative of improving Hong Kong's business-friendly environment. Studies conducted under other Heads were undertaken by departments or agencies under the purview of CIB in connection with implementation of various policy programmes. SCI emphasized that it was necessary for the Government to engage outside consultants for expert advice on complex issues and matters.

4.6 As regards monitoring of consultancy studies, CIB and departments or agencies under its purview had been following the relevant guidelines issued by the Finance Bureau in vetting requests for conducting consultancy studies. They also monitored progress of the studies closely and assessed their results. DS(CI)2 supplemented that approval of the Central Consultants Selection Board would be required for undertaking a consultancy study with estimated cost above \$1.3 million.

### **Improving the business environment**

4.7 Mrs Selina CHOW referred to the six consultancy studies and nine projects under the HBP completed in 2001-02 and noted that more than 20 measures identified in these studies or projects for improving the business

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environment had been implemented. She enquired about the details of these measures, in particular those related to the Helping Business Awards Scheme (HBAS) 2001. In response, DS(CI)2 advised that the HBP aimed to create a more business-friendly environment. Under the programme, the Business and Services Promotion Unit would conduct studies or projects jointly with bureaux or departments to review government policies or operations with a view to streamlining procedures, removing unnecessary regulations, and improving services to the business community. He undertook to provide the details of the 20 measures that had been implemented for members' information.

4.8 As regards the details of the HBAS, DS(CI)2 advised that the purpose of the Scheme was to engender a helping business culture and mindset in the civil service. Besides encouraging civil servants to introduce new initiatives to facilitate business operations, the business community was also invited to nominate good initiatives for awards. Two schemes were organized in 1999 and 2001 respectively with encouraging responses. New initiatives which had been awarded so far included the scheme to allow Taiwan residents apply for entry permits through the Internet and streamlining the application procedures for food premises licences. Upon Mrs CHOW's request, SCI agreed to provide more details on the HBAS by submitting an information paper to the LegCo Panel on Commerce and Industry (CI Panel).

4.9 As to whether reports of consultancy studies would be disclosed to the public, DS(CI)2 said that the relevant bureaux or departments would decide on a case-by-case basis having regard to the nature of the individual studies. In general, the executive summary of a consultancy report would be released, and where appropriate the whole report would be disclosed. In this connection, SCI took note of Mrs CHOW's view that reports of consultancy studies conducted should be released as far as possible.

### **Services to small and medium enterprises**

4.10 As it was among the programmes of the Trade and Industry Department to support and facilitate the development of Hong Kong's small and medium enterprises (SMEs), Miss CHOY So-yuk urged the Department to adopt a more proactive approach in assisting SMEs in small trades by helping them to organize trade associations, providing them with technical assistance as well as information services so as to enhance their competitiveness in meeting rapid changes of the economy.

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4.11 In reply, SCI stressed the Government's commitment in supporting the development of SMEs. In respect of funding assistance, the four SMEs funding schemes with maximum expenditure of \$1.9 billion were launched in late 2001 to help SMEs secure loans for purchasing business installations and equipment, expanding markets, providing training for employers and employees and upgrading their overall competitiveness. As regards other support measures, the Director-General of Trade and Industry (DG of TI) advised that the Department had been actively reaching out to the SMEs in Hong Kong through various means. Besides maintaining close liaison with trade and industry associations, the Department, the Trade Development Council and the Hong Kong Productivity Council disseminated up-dated information on related services and programmes organized by the Government and related bodies, developments and regulatory policies or measures of overseas markets to SMEs through different channels including press releases, periodic publications and the Internet. The Department and related bodies also operated telephone hotlines for handling enquiries by SMEs. To enhance the support services for SMEs, the SME Information Centre was upgraded into the Support and Consultation Centre for SMEs in November 2001 to provide convenient one-stop services to SMEs on an expanded range of services. DG of TI re-iterated that the focus of the Department's work was to promote the development of SMEs and enhance their long-term competitiveness. As such, it would be inappropriate for it to take up the task of organizing trade associations for SMEs. Nonetheless, he welcomed suggestions from members on trades or SMEs which they considered the Department should enhance contact with.

### **Proposal to develop an exhibition centre at Chek Lap Kok**

4.12 In connection with the work of strengthening Hong Kong's infrastructural facilities in order to facilitate trade, Miss CHOY So-yuk enquired about the progress of the proposal to develop an exhibition centre at Chek Lap Kok to maintain Hong Kong's competitiveness in capturing the growing exhibition business in the Asia-Pacific region. SCI advised that there had been high-level discussions within the Government and meetings with the exhibition industry on the project in the recent few weeks. He informed members that CIB would brief on the progress of the proposal and the way forward at the coming meeting of the CI Panel scheduled for 8 April 2002. The Director-General of Investment Promotion (DG of IP) added that the Government and the Airport Authority had conducted overseas tours to Europe and North America in early 2002 and met with top exhibition companies and operators of major exhibition

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centres. A vast majority of these organizations had expressed great interest in participating in the project. Details on the outcome of the tours would be included in the paper to be submitted to the CI Panel.

### **External direct investments into Hong Kong**

4.13 Mr Kenneth TING pointed out that there had been remarkable increase in the amount of inward investment in recent years and enquired how the Government could assess the effectiveness of the programme on investment promotion. DG of IP advised that the boom in inward investment to Hong Kong in 2000 was mainly due to general improvement in investment climate both locally and worldwide following the recovery from the economic turmoil of the recent years, rather than a direct result of the Government's continued efforts in promoting inward investment. He added that the focus of international investment had shifted to North Asia in recent years, in particular, the Mainland in anticipation of its accession to the World Trade Organization (WTO).

4.14 On assessing the effectiveness of the investment promotion programme, DG of IP said that a number of result-oriented indicators had been employed. For instance, statistics in annual surveys on the local economy conducted by the Census and Statistics Department, such as the number of new foreign companies incorporated and regional headquarters/offices of multi international corporations established in Hong Kong; as well as statistics on foreign direct investment published by the United Nations Conference on Trade and Development were good indicators. To further improve performance assessment on this programme area, DG of IP advised that a new scheme was introduced in January 2002 under which foreign investors seeking assistance of the Invest Hong Kong were required to sign an acknowledgement of assistance. Specific questions on amount of investment made and estimated number of jobs created were asked. It was believed that the results of the programme would be better quantified with more information provided by foreign investors. However, unlike some European countries and New Zealand which provided financial incentives to attract foreign inward investment and hence could impose mandatory requirement on companies to provide information, Invest Hong Kong could not compel information from investors. Nevertheless, companies dealt with by the Agency so far had been co-operative and willing to provide the required information.

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4.15 On enquiries by Mr NG Leung-sing and Mr Henry WU about the details on inward investment in 2000 and 2001 and forecasts for 2002 and 2003, DG of IP advised that the some \$500 billion in-flow investment recorded in 2000 was largely attributed to major merger and acquisition activities in the telecommunications sector and “parking” of funds by multinational companies planning to invest in the Mainland. In respect of the merger and acquisition activities, about \$160 billion investment was connected with a single equity holding transaction involving the sale to a Hong Kong subsidiary of a Mainland company of a substantial amount of assets held in China. As the transaction was partly paid for by the parent company accepting new shares in its Hong Kong subsidiary, that part was accounted as inward investment to Hong Kong. As regards the “parking” of funds, the Invest Hong Kong and the Hong Kong Monetary Authority were still analyzing the details and the direction of fund flows.

4.16 In 2001, DG of IP advised that apart from other new leads and projects generated from aftercare services, the Invest Hong Kong had helped to complete 99 inward investment projects with a total value of \$3.5 billion and over 1 500 new jobs created locally. He cautioned that there was no direct correlation in the number of projects completed and the amount of in-flow investment generated as there was large variation on the range of projects where a few projects might account for a vast amount of investment made. Although the amount of in-flow investment for 2001 was only about \$180 billion, Hong Kong was ranked second next to the Mainland in Asia in terms of recipient for foreign direct investment. As regards forecast on inward investment in 2002 and 2003, DG of IP envisaged that there would only be moderate growth as Hong Kong continued to be an attractive fund raising centre in Asia, notwithstanding the expected reduction in “parking” funds after China entered into the WTO in late 2001.

### **Strengthening Mainland-Hong Kong economic and trade links**

4.17 With reference to the consultation with the Mainland for pursuing the Closer Economic Partnership Arrangement (CEPA), Ms Emily LAU referred to concern expressed by some foreign chambers of commerce recently that one of the proposed definitions of “Hong Kong company” suggested by the Hong Kong General Chamber of Commerce (HKGCC) was too restrictive and would exclude foreign companies to benefit from the CEPA, and asked whether the Government had followed up on the matter. SCI advised that according to Government’s

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legal advice, any definition which adopted Hong Kong permanent residence as one of the criteria would contravene Article 5 of the General Agreement on Trade and Services under the WTO. The Government's views had been conveyed to the HKGCC before the Chamber had formally submitted its proposal to the Government. CIB had also explained to foreign chambers that the definition was only a proposal from a certain chamber of commerce and was not a Government position.

4.18 Mr HUI Cheung-ching enquired about details of Government's programmes to enhance support services for Hong Kong enterprises to facilitate their operation in the Mainland upon liberation of China market following its accession to the WTO. DG of TI advised that the Government would continue to make full use of the existing communication mechanism of the Mainland/Hong Kong Joint Commission on Commerce and Trade to exchange views and information with the Mainland on economic and trade issues of mutual interests. In order to facilitate better understanding of the policy and legislative changes arising from the Mainland's WTO accession, the Government had agreed with the Ministry of Foreign Trade and Economic Cooperation under the Joint Commission to hold a series of seminars in 2002 to brief Hong Kong businessmen on the Mainland's latest economic and trade situations after its accession to the WTO. The first seminar was held on 23 March 2002, covering topics on the opening up of the distribution market and labour regulations. Another two seminars would be organised in mid and end-2002 on the Mainland's market access commitments, the relevant timetable and details of implementation.