

立法會
Legislative Council

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(These minutes have been seen
by the Administration)

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Panel on Commerce and Industry

Minutes of meeting
held on Monday, 8 July 2002, at 4:30 pm
in Conference Room A of the Legislative Council Building

Members present : Hon Kenneth TING Woo-shou, JP (Chairman)
Hon HUI Cheung-ching, JP (Deputy Chairman)
Dr Hon LUI Ming-wah, JP
Hon NG Leung-sing, JP
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon CHEUNG Man-kwong
Hon CHAN Kam-lam, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon SIN Chung-kai
Hon CHOY So-yuk
Hon Henry WU King-cheong, BBS, JP
Hon MA Fung-kwok, JP

Public officers attending : **For Item III**

Ms Kitty CHOI
Head, Hong Kong Guangdong Cooperation
Coordination Unit

For Item IV

Mr Philip CHAN
Principal Assistant Secretary for Commerce, Industry
and Technology (Commerce and Industry)

Mr Raymond LI
Deputy Commissioner of Customs and Excise

Mrs Marigold LAU
Project Director, Architectural Services Department

For Item V

Mr Kenneth MAK
Deputy Secretary for Commerce, Industry and
Technology (Commerce and Industry)

Miss Pancy FUNG
Assistant Director of Intellectual Property

Ms Maria NG
Senior Solicitor, Intellectual Property Department

For Item VI

Mrs Sarah KWOK
Acting Commissioner for Innovation and Technology

Mrs Shirley LAU
Assistant Commissioner for Innovation and
Technology (Projects)

Attendance by Invitation : Mr Thomas TANG
Executive Director, Hong Kong Productivity Council

Clerk in attendance : Ms Connie SZETO
Chief Assistant Secretary (1)4

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

For Item V

Miss Anita HO
Assistant Legal Adviser 2

Action

I Confirmation of minutes of previous meeting
(LC Paper Nos. CB(1) 2147/01-02, 2146/01-02(01) and (02))

The minutes of the meeting held on 13 May 2002 were confirmed.

Meeting with the new Secretary for Commerce, Industry and Technology

2. Members agreed to invite the new Secretary for Commerce, Industry and Technology (SCIT) to attend the Panel meeting in late September or early October 2002 to brief members on his areas of responsibilities and future work plans in respect of the programme areas relating to commerce and industry.

(Post-meeting note: The special Panel meeting with SCIT was scheduled for 3 October 2002 at 2:30 pm.)

II Information papers issued since last meeting

3. Members noted that since the last meeting, an information paper on the Liberalization of Rice Trade by 2003 (LC Paper No. CB(1) 2228/01-02) was issued on 8 July 2002.

III Briefing on the work of the Hong Kong Guangdong Cooperation Coordination Unit

(LC Paper No. CB(1) 2146/01-02(03))

Meetings held with the Mainland authorities

4. Mr CHAN Kam-lam sought information on the number of meetings held with the Mainland authorities, the items discussed and the progress made so far since the establishment of the Hong Kong Guangdong Cooperation Coordination Unit (HKGCCU). The Head, Hong Kong Guangdong Cooperation Coordination Unit (H(HKGCCU)) said that HKGCCU was established to strengthen communication with the Guangdong side (including Shenzhen and other municipal authorities). Since her assumption of duty, HKGCCU had been focusing its work and discussions with the Mainland authorities on opening gateways for passenger and cargo flow, as well as establishing a rapport with its Mainland counterparts, including the Port Office of the People's Government of Shenzhen, the Shenzhen General Station of Exit and Entry Frontier Inspection and the Shenzhen Customs. Relevant issues had also been followed up proactively. In general, HKGCCU met with the Mainland authorities two to three times per week on average. A number of official and unofficial meetings were held with the Guangdong provincial authorities both in Hong Kong and the Mainland to follow up on the work of the Hong Kong/Guangdong Co-operation Joint Conference. This would expedite the implementation of the agreement made by the two sides. HKGCCU had also attended two meetings of the Mainland/HKSAR Conference on the Coordination of Major Infrastructure Projects (the Conference). Visits between both sides were organized to ensure compatibility among infrastructural developments in the Pearl River Delta region and to explore opportunity for further cooperation. HKGCCU would liaise with

the State Development Planning Commission (SDPC) in organising the third meeting of the Conference in the third quarter of this year.

Coordination of infrastructural facilities in Guangdong and Hong Kong

5. Given that the Mainland authorities had attached great importance to the development of infrastructural facilities and had conducted thorough research on the relevant demand, Mr CHAN Kam-lam was concerned about how the Administration would synchronize the pace of development in Guangdong and Hong Kong. Regarding the coordination of major infrastructural projects in Guangdong and HKSAR, H(HKGCCU) advised that HKGCCU would closely monitor the work progress of the two expert groups set up under the Conference, namely the Expert Group on Port and Logistics Development and the Joint Expert Group on Guangzhou-Shenzhen-Hong Kong Express Rail Link, in order to coordinate the development of infrastructural projects in both places. Moreover, the Guangdong and Hong Kong authorities had exchanged views on the 10th five-year development plan of the Guangdong Province and the "Hong Kong 2030: Planning Vision and Strategy" Study (HK2030 Study) undertaken by the Planning Department (PD). This would enable the two sides to know more about each other's demand and long term development in respect of infrastructural facilities. As the authorities concerned were still working on the blueprints of the development of infrastructural facilities, details of the proposed facilities were not discussed in depth. H(HKGCCU) added that upon completion of PD's HK2030 Study, HKGCCU would further discuss with the Mainland authorities about the implementation of the infrastructural facilities which would benefit the economic development of both sides.

6. Mr SIN Chung-kai quoted from reports that the Mainland had planned to construct a highway connecting Zhuhai and Hong Kong directly but eventually re-routed the highway to Shenzhen. It was suspected that such arrangement was due to Hong Kong's failure to provide the necessary support. He sought the Administration's views on such reports. H(HKGCCU) replied that the project mentioned by Mr SIN was outside the scope of HKGCCU's terms of reference. After making enquiries with the Environment, Transport and Works Bureau and the Housing, Planning and Lands Bureau, she realized that the Mainland authorities had not requested Hong Kong to provide support in this regard. Mr HUI Cheung-ching added that although the project was not included in the 10th five-year development plan of the Guangdong Province, he understood that the Mainland authorities had already completed the feasibility report on the project which concluded that the project would bring about considerable economic benefits.

Measures to further facilitate the customs clearance procedures in Guangdong and Hong Kong

7. Mrs Sophie LEUNG was concerned about the cargo clearance procedures. She pointed out that the existing inspection procedures for semi-manufactured clothing items had caused manufacturers much inconvenience. She urged the

Administration to follow up the issue. H(HKGCCU) said that she was willing to bring up the issue with the relevant Bureau (e.g. the Commerce, Industry and Technology Bureau) and take appropriate follow-up actions. HKGCCU would also discuss with the Mainland authorities about the improvement measures where necessary. Mrs Sophie LEUNG suggested that the Administration might consider establishing a telephone hotline to handle the relevant complaints. In addition, she could liaise with the affected garment manufacturers and collect their views on customs clearance procedures for the Administration's reference. In response, H(HKGCCU) said that the Administration would welcome their views.

8. Mr HUI Cheung-ching enquired why the pilot exercise of the co-location of customs and immigration facilities (the co-location arrangement) for cargo flow could only be implemented after the completion of the Shenzhen Western Corridor (SWC) in 2005/06. H(HKGCCU) responded that according to her understanding, the Administration had prepared an information paper on the co-location arrangement for the discussion of the Panel on Security on 10 July 2002. She explained that as the purpose of the SWC was to ease the cargo flow in Guangdong and Hong Kong, it was logical to conduct the pilot exercise after its completion. Moreover, the pilot exercise on the co-location arrangement for passenger flow at the Lok Ma Chau/ Huanggang Control Point could serve as a reference for the similar exercise to be introduced upon completion of the SWC. She further pointed out that the lack of facilities, such as cargo inspection platform and vehicle inspection lane, was the main reason for not carrying out the pilot exercise on the co-location for cargo flow at the Lok Ma Chau/Huanggang Control Point.

9. Mr HUI Cheung-ching asked whether the Administration had plans to identify additional control points for pilot exercises on the co-location arrangement for cargo flow. H(HKGCCU) replied that the Administration had been making strenuous efforts to facilitate an early completion of the SWC. Besides, experience had to be gained from the pilot exercise on the co-location arrangement for passenger flow at the Lok Ma Chau/Huanggang Control Point. Therefore, it had no plans to implement similar pilot exercises at other control points, such as Man Kam To and Sha Tau Kok at this stage.

10. While expressing concern about HKGCCU's work to facilitate the two-way passenger flow between Hong Kong and the Mainland, Mrs Selina CHOW enquired whether the Administration had set any targets, such as performance pledge, to improve the efficiency of passenger flow between the two places. H(HKGCCU) referred to the figures provided in paragraph 4 of the paper, which indicated that the total number of passengers cleared within 15 minutes at Lo Wu Control Point had increased from 84% in October 2001 to 87% in April 2002. In May 2002, the figure rose further to 90%. She pointed out that the situation could reflect the Administration's efforts in improving the passenger flow.

11. Mrs Selina CHOW pointed out that the 15 minutes required for clearance did not include the passengers' waiting time. She therefore suggested

that HKGCCU should liaise with the departments and Mainland authorities concerned to explore thoroughly possible measures to improve passenger flow. H(HKGCCU) advised that she was willing to follow up the issue. She would work closely with the departments and Mainland authorities concerned to formulate improvement measures which could enhance the efficiency of passenger clearance.

12. In response to Mr CHAN Kam-lam's enquiry, H(HKGCCU) advised that the Administration had completed a consultancy report on the 24-Hour Opening of Border Crossings with the Central Policy Unit and the Security Bureau. The social and economic impact of such measures on Hong Kong had also been assessed. The findings of the study would be consolidated and submitted to the relevant Panel in the coming legislative session.

13. The Chairman suggested that in order to improve the efficiency of passenger flow in the control points on the Hong Kong side, the Administration should strengthen liaison with the Mainland authorities and learn from the successful experience of the Mainland in simplifying customs clearance procedures. H(HKGCCU) responded that HKGCCU would continue to work with the Immigration Department to find ways to facilitate effective clearance. On the Chairman's suggestion that the Administration should consider making it compulsory for private car passengers to alight from their vehicles for clearance procedures, H(HKGCCU) considered that the suggestion could facilitate smooth clearance procedures. However, additional space had to be reserved for provision of private car parking facilities when undertaking expansion works at the Lok Ma Chau Control Point for such clearance procedures to take place. She undertook to consider the Chairman's suggestion.

14. Miss CHOY So-yuk was concerned about the congestion of goods and passenger vehicles caused by inadequate transport facilities at the Lok Ma Chau Control Point. She urged the Administration to actively consider improving the transport facilities leading to Lok Ma Chau to ease cross-border traffic. Regarding the arrangement under which customs and excise officers and immigration officers carried out clearance procedures in the same inspection kiosk, Miss CHOY So-yuk commented that such an arrangement in fact could not shorten the clearance time. H(HKGCCU) said that the arrangement had been cancelled. The Administration would continue to explore possible measures to simplify the clearance procedures to enhance efficiency. Regarding the problem of traffic congestion at the Lok Ma Chau Control Point mentioned by Miss CHOY, H(HKGCCU) advised that HKGCCU had set up an inter-departmental working group with the Police and the Transport Department to examine the issue with a view to identifying improvement measures. She said that she would follow up the matter.

IV Proposed new Customs Headquarters Tower
(LC Paper No. CB(1) 2146/01-02(04))

15. Members noted that the Panel had discussed the proposed new Customs Headquarters Tower (the new Customs Tower) at its meeting held on 10 June 2002. In view of members' concerns raised at the meeting, the Administration had provided further information to address members' queries.

The issue of construction cost

16. On Mrs Selina CHOW's enquiry about the determination of construction cost of government projects, the Project Director, Architectural Services Department (PD(ASD)) responded that the cost was calculated on the basis of the estimated cost of the projects, with adjustments made in accordance with the relevant tender price index.

17. Mrs Selina CHOW was concerned about the accuracy of the tender price index. She considered that the index might deviate from the actual market situation, resulting in the amount of funding to be sought exceeded actual needs. To achieve cost-effectiveness and allow members to consider whether the funding request was justifiable, she asked the Administration to provide figures on the amounts of funding which had been sought from the Public Works Subcommittee (PWSC) for the projects including the Shatin Government Offices and the Police Headquarters, together with the actual tender prices, for members' reference.

18. The Principal Assistant Secretary for Commerce, Industry and Technology (Commerce and Industry) (PAS(CIT)) appreciated Mrs Selina CHOW's concern. He advised that under the existing mechanism, if the tender price of a project was lower than the amount of funding approved by the Finance Committee (FC), the difference would be returned to the Administration.

19. PD(ASD) explained that the tender price index was compiled with reference to the prices quoted in the tenders received and would be adjusted every three months. For instance, the construction unit cost of the Police Headquarters approved by FC was \$14,999 per square metre of construction floor area (CFA). If adjusted in accordance with the existing tender price index, the construction unit cost would be \$12,178 per square metre of CFA. As for the Shatin Government Offices, the construction unit cost approved by FC was \$13,626 per square metre of CFA and this figure would fall to \$11,264 after the adjustment. She added that as the costs for piling, external works, consultant's fee and furniture and equipment might vary greatly due to the requirements and special condition of individual projects, the construction unit cost would generally not cover these items. Objective comparison could only be made based on two items, namely the building and the building services costs. She further explained that the construction unit cost of the Shatin Government Offices was lower than that of the proposed new Customs Tower mainly because the former did not include facilities for the disciplinary services. As compared

with the project of the New Territories South Regional Police Headquarters recently approved by FC, whose construction unit cost was \$11,958 per square metre of CFA, the construction unit cost of the new Customs Tower at \$11,886 was still lower. PD(ASD) stressed that the Administration had made reference to the construction unit cost of private commercial buildings. Survey findings indicated that the prevailing construction unit costs of private commercial buildings including and excluding furnishing costs were \$13,500 and \$11,200 per square metre of CFA respectively.

20. Mrs Selina CHOW criticized that the construction cost of the new Customs Tower was high and considered the ratio of the net operational floor area (NOFA) to CFA (i.e. 43%) too low and not cost-effective. In response, PD(ASD) said that confusion was bound to arise given the different methods adopted by government departments and private developers in calculating the efficiency ratio of buildings. In general, private developers calculated the usable floor area against the gross floor area. Under such a calculation method, not only office spaces, but also areas occupied by corridors, toilets, plant rooms, lifts and car park were included. On the other hand, the Government drew comparison with the net operational floor area only, while the areas mentioned above were excluded. She added that if the gross floor area was adopted for comparison, the efficiency ratio for the three projects, namely the new Customs Tower, the Shatin Government Offices and the Police Headquarters, would increase to more than 70%.

21. PAS(CIT) reiterated that by comparing the building cost and the building services cost, the construction unit cost of the new Customs Tower would be \$11,886 per square metre of CFA, while those of private buildings would be \$13,500 per square metre of CFA. Regarding the ratio of NOFA to CFA, it was difficult to make a direct comparison due to different calculation methods adopted in Government and private projects.

Location of the new Customs Tower

22. Mr Henry WU enquired whether the Administration had considered any alternative sites in the Eastern District on Hong Kong Island for the construction of the new Customs Tower. He also suggested that the Administration should brief the Eastern District Council (EDC) on the details of the project, including the exterior design of the tower and its impact on the transport and the environment in the adjacent area arising from the construction of the tower.

23. PAS(CIT) advised that the Administration had once considered a site in Chai Wan for the construction of the new Customs Tower. However, this option had been ruled out as the site covered an area of 0.5 hectare which was twice as big as the present site. In addition, the Administration had already briefed the EDC on the project of the new Customs Tower. He undertook to minimize the impact on transport and environment when the construction works were in progress. The Deputy Commissioner of Customs and Excise (DC(C&E)) added that the Administration had sought EDC's views twice in 1998 and 2001 on the

construction of the new Customs Tower and the reprovisioning of the Marble Road refuse collection point.

24. Mr SIN Chung-kai supported in principle the proposal to construct the new Customs Tower. He further enquired when the Administration would submit the proposal to PWSC and FC for funding approval. In response, PAS(CIT) said that the Administration intended to submit the proposal to PWSC and FC at the beginning of the next legislative session. In view of members' concerns, particularly those related to the construction cost of the new Customs Tower, he undertook to provide more detailed information at that time for Members' consideration.

25. As Hong Kong Island was less populated than Kowloon and the New Territories, Mr SIN Chung-kai expressed reservation about the proposed location for the new Customs Tower in North Point. In response, PAS(CIT) said that due to operational needs, the Customs and Exercise Department (CED) had to centralize the dispersed offices to enhance efficiency. On the location of the new Customs Tower, he advised that the Administration had considered various factors and concluded that the accessibility of the present site could facilitate the effective discharge of duties by different action teams. The public would also find CED's services easily accessible.

CITB

26. Mrs Selina CHOW advised that while in principle, the Liberal Party (LP) did not object to the proposal to construct the new Customs Tower and considered the site in North Point suitable, LP had reservation about the construction cost of the project. The Chairman said that in principle, the Panel supported the construction of the new Customs Tower and suggested that the Administration should provide information on the construction cost in its submission to PWSC and FC for members' reference. Mr SIN Chung-kai reiterated that he did not object to the construction of the new Customs Tower but hoped that the Administration could provide specific justification for the proposed site.

27. DC(C&E) said that the Administration was rather passive in the site selection process. The existing site was identified only after serious consideration of the options proposed by the Planning Department. Mrs Selina CHOW suggested that the Administration should provide more detailed information so that members could have a full picture of the whole selection process, including the sites under consideration, the screening process and the time involved. The Chairman reiterated his suggestion that the Administration should provide more relevant information in its submission to PWSC and FC.

V Briefing on the draft Copyright (Amendment) Bill 2002
(LC Paper No. CB(1) 2146/01-02(05))

28. The Deputy Secretary for Commerce, Industry and Information Technology (Commerce and Industry) (DS(CIT)) briefed members on the draft

Copyright (Amendment) Bill (the Bill). Details were set out in the information paper provided by the Administration.

29. While indicating his support in principle for the policy objective stated in paragraph 4 of the paper, Mr SIN Chung-kai considered it difficult for members to give any specific views on the draft Bill at this stage. He suggested that the Administration should hold briefings for interested parties during the recess of the Legislative Council (LegCo), explaining to them the scope of the Bill as well as gauging their views. This would facilitate the deliberation of the Bills Committee to be set up in future.

30. Referring to the proposal to create a new criminal offence targeting at illicit copy-shops as set out in paragraph 12 of the paper, Mr HUI Cheung-ching was concerned about the enforcement of the proposed provision. DS(CIT) advised that the Administration had not yet come to the specific enforcement measures at this stage. In general, the Customs and Excise Department (CED) could not take any enforcement actions without the copyright owner's assistance and proof. Nevertheless, CED would also act on reports and take actions against the black spots where illegal reproduction activities took place with a view to curbing these infringing acts. DS(CIT) added that the Administration's current thinking was that such an offence would include the following elements: the offender was engaged in a commercial business providing a copying service to the public; and the offender possessed in the course of that business infringing copies of a copyright work in printed form. Details were set out in paragraph 12 of the paper.

31. Mr HUI Cheung-ching enquired whether the students who used illicit copies of a book and the teachers who had knowledge of the matter would be held criminally liable. DS(CIT) responded that under the draft Bill, end-user liability only applied to four categories of copyright works including computer programs, movies, television dramas, and musical recordings (the Four Categories). As such, the students and teachers referred to in Mr HUI's example would not commit any criminal offence.

32. Mrs Selina CHOW noted that in tightening criminal sanction against illicit copy-shops, the Administration would target at infringing acts for commercial purposes. She would like to know whether reproduction activities for educational or non-profit-making purposes would involve criminal liability. DS(CIT) responded that under the draft Bill, an offender who was engaged in a commercial business providing a copying service to the public and possessed in the course of that business infringing copies of a copyright work in printed form would be subject to criminal sanction. As for reproduction activities for educational or non-profit-making purposes (e.g. provision of photocopy machines in the library to provide reasonable copying service on a cost-recovery basis), they were not the targets of the Bill. He stressed that the provision on criminal sanction against illicit copy-shops would be drafted carefully to avoid unnecessary worries and confusion.

33. Mrs Selina CHOW enquired whether the Administration had kept on listening to the views of the organizations in the publishing industry after the public consultation exercise on the document entitled “Review of Certain Provisions in the Copyright Ordinance” in November 2001. DS(CIT) advised that after reporting the outcome of the public consultation exercise to the Panel in February 2002, the Administration had received written submissions from some local and overseas publishing organizations. Meetings were also held for exchange of views. The publishing industry considered that apart from the Four Categories, end-user criminal liability should also be applied to infringing acts relating to books and printed publications. Moreover, the industry also considered that criminal sanction against illicit copy-shops should be strengthened. Therefore, it welcomed the creation of a new criminal offence to combat illicit reproduction activities. As the relevant provisions had yet to be drafted, he undertook to consult the publishing industry on the draft provisions in due course.

34. The Assistant Legal Adviser 2 (ALA2) pointed out that in the present draft Bill, the drafting of many provisions had not yet commenced. On amending the definition of the term “business”, she advised that there was no specific and clear definition for the term internationally. She urged the Administration to deal with the definition carefully in the drafting process. DS(CIT) said that in addition to commercial acts, “business” also included certain non-commercial activities, such as educational and non-profit-making activities. The Administration hoped that this amendment exercise could further clarify the meaning of the term to avoid confusion.

35. The Chairman urged the Administration to expedite the drafting of the Bill and listen to the views of the public and the industry to facilitate its introduction into the LegCo early in the next legislative session for Members’ scrutiny.

VI Role and mission of the Hong Kong Productivity Council (LC Paper No. CB(1) 2146/01-02(06))

36. The Acting Commissioner for Innovation and Technology (CIT(Atg)) informed members of the progress of the follow-up actions concerning the consultancy report on the review of the role and mission of the Hong Kong Productivity Council (HKPC), and responded to members’ concerns about HKPC’s role conflict.

HKPC’s role and modus operandi

37. Mrs Selina CHOW considered it contradictory for the Administration to expect HKPC to operate on a self-financing basis while avoiding business competition with the commercial sector. This would also bring confusion to HKPC’s role. In this connection, she sought the Administration’s views on how HKPC should discharge its functions and secure funding resources.

38. CIT(Atg) advised that HKPC provided a wide range of services, including consultancy, training and technology transfer, to assist in the development of the local business sector. The Administration hoped that HKPC could maintain these services because at present, those emerging markets where similar service providers were unavailable or whose low return rate had deterred service providers still had to rely on HKPC's services. If there was already adequate supply of service providers in the market, HKPC should consider cutting back such services. She stressed that economic development had changed the service requirements of local small and medium enterprises (SMEs). HKPC had to adapt to the changing circumstances by reviewing from time to time its scope of service.

39. On the concerns about HKPC's source of funding, CIT(Atg) advised that notwithstanding the revenue generated from its services provided to the industries, Government subsidy was still available to HKPC so that it could provide support service to local industries. Furthermore, HKPC also recovered the costs of its services, either in whole or in part, according to individual circumstances. Reasonable profit was even sought to finance some of its operation.

40. Dr LUI wah-ming commended HKPC for its contribution to the development of local industries in the past. However, with the relocation of industries to the Mainland, HKPC's service target had changed as well. He commented that HKPC should review its role and the way forward. Moreover, the Administration should also set out clearly HKPC's subvention arrangements. CIT(Atg) said that the Administration would actively consider Dr LUI's views. Given the non-profit-making nature of its business, HKPC had formulated strict pricing policies to avoid competition with the market. In mature markets, HKPC had to achieve full cost recovery for the services provided to both SMEs and big firms, with the latter paying higher fees for HKPC to make a profit. In markets where services were inadequate, HKPC should at least recover its costs in part from SMEs and in full from big firms. The Consultant had already recommended that HKPC should consider the formation of spin out businesses to provide services to the commercial sector. Moreover, the Consultant also recommended that the Administration and HKPC should jointly review the subvention arrangements.

41. As the relocation of local industries to the North had created keen demand for HKPC's support services from Mainland enterprises, Mr HUI Cheung-ching enquired whether the Administration had considered opening up external market, particularly the Pearl River Delta (PRD). CIT(Atg) responded that under the existing legislation, HKPC might provide services in places outside Hong Kong, including the Mainland, without prejudicing its services provided in Hong Kong. However, the implementation of such arrangements required HKPC's further consideration. In fact, HKPC had already set up a liaison office in PRD.

Complaints against HKPC

42. Mr MA Fung-kwok pointed out that the Complaints Division of the LegCo Secretariat had received complaints against HKPC from two SMEs. One of them complained that as the implementation agent of the Patent Application Grant (PAG) scheme, HKPC was suspected of developing and selling products similar to those being developed by a PAG applicant, which constituted a conflict of interest. The other complainant alleged that by forming partnership with a local company, HKPC had made use of the company's product concept and developed a similar product for sale in the market. Mr MA Fung-kwok considered that serious consequences might result if the above allegations were substantiated and HKPC's reputation would be directly affected. He was concerned about the follow-up actions taken by the Administration in respect of these complaints. Although HKPC had already put in place a mechanism under the PAG scheme to prevent the leakage of information provided by PAG applicants, he queried whether the mechanism could effectively avoid conflict of interest. Mr MA Fung-kwok further pointed out that in the past, HKPC had been criticized of seeking additional resources from the Administration to make up its own funding shortage on the pretext of forming partnerships with local companies. This would certainly aroused suspicion that HKPC had abused public money.

43. CIT(Atg) replied that the complaint cases mentioned by Mr MA mainly concerned the fulfilment and infringement of contracts HKPC signed with its partners and the PAG applicants. As legal liabilities and contract details might be involved, she advised that it was not appropriate to discuss the details and make any judgement at the meeting. Notwithstanding, she agreed that the Administration should review the scope of service provided by HKPC from the policy perspective. This would avoid HKPC from playing conflicting roles and competing with the business sector. Regarding the concerns about the implementation of PAG, given the considerable experience HKPC had accumulated as the implementation agent of the PAG scheme, a mechanism had already been in place to avoid possible role conflict, and ensure the confidentiality of the information obtained and the independence of the team set up to process patent applications when implementing the scheme. She said that HKPC would strengthen the mechanism where necessary. In order to avoid competition with the business sector, she pointed out that the Implementation Steering Committee (ISC) under HKPC had suggested that HKPC should focus on the research and development of products and reduce its involvement in manufacturing and marketing. For instance, technology transfer should be pursued so that the industry would be allowed to manufacture and market products developed by HKPC through licensing agreements.

44. Mr MA Fung-kwok enquired about the vetting criteria of various funding schemes to support business and industrial development. CIT(Atg) cited the Innovation and Technology Fund as an example and explained that in general, applications were vetted to see whether they were within the scope of the fund. The applicant's background was not a major consideration. HKPC could also

submit joint applications with local companies. According to her observation, many HKPC research projects were conducted in collaboration with trade associations. While rendering professional service and advice, HKPC did not aim at obtaining funding support to finance its operation.

45. In view of the complaints lodged by affected companies and the media coverage on the issue, Mr MA Fung-kwok was concerned about whether the Administration had made an investigation. On the research projects jointly undertaken by HKPC and SMEs, Mr MA Fung-kwok was concerned that the contract terms of such projects usually focused on safeguarding HKPC's interest which would be unfair to SMEs.

46. In response, CIT(Atg) believed that as a usual practice, HKPC's Management would look into the complaint and take appropriate follow up actions. Furthermore, she pointed out that being a statutory organization, HKPC attached great importance to its ethical practice and conducted its business according to law.

47. The Executive Director of the Hong Kong Productivity Council (ED(HKPC)) added that HKPC had maintained close liaison with the business sector and played an active role in supporting the development of SMEs. HKPC was committed to promoting Government funding schemes among SMEs and would provide professional advice on their applications. He stressed that although SMEs might submit their applications to the relevant funding schemes in collaboration with HKPC, HKPC had not received any additional funding from the Government. Regarding the implementation of the funding schemes, he advised that strict vetting mechanism was in place and every project had to be scrutinized by the vetting committees under the relevant funding schemes. After an application had been approved, HKPC would report regularly the latest progress to its members. Notwithstanding, HKPC welcomed the views from different sectors so as to further refine the existing mechanism. On HKPC's role as the implementation agent of PAG, ED(HKPC) pointed out that funding applications were processed by a working group which operated independently. The working group was formed according to the strict principle of confidentiality. The principle and procedures concerned had been operated satisfactorily over the past years. However, HKPC would further review and strengthen the mechanism. Regarding those projects under application, HKPC would only make recommendations for projects which were deemed suitable for specific schemes. Whether the applications would be approved were subject to the decision of the vetting authorities concerned. For those applicants who fail to secure any funding support, HKPC was willing to explain the case to them and provide appropriate assistance.

48. Regarding the concern about HKPC's handling of external complaints, ED(HKPC) said that a mechanism was already in place. For more complicated complaint cases, especially when professional or legal issues were involved, HKPC would forward them to a special in-house ad hoc committee comprising senior management staff for follow-up. The committee might even seek

professional advice on individual cases where necessary. He emphasized that HKPC dealt with each complaint seriously and maintained contact with the complainant with a view to improving the quality of its service.

49. Mr SIN Chung-kai opined that given the very serious nature of the allegations, it was necessary for the Administration to investigate into the matter and report its findings to the LegCo. In addition, he was concerned that HKPC's work would compete with the IT industry and urged the Administration to discuss with the industry for an expeditious solution. CIT(Atg) said that in April 2002, the ISC under the Council of HKPC reached in principle a consensus on HKPC's new role, working focus and mode of development, and was prepared to seek the views of the IT industry.

50. For the sake of accountability, Mrs Selina CHOW urged the Administration/HKPC to complete the investigation of the complaints expeditiously and report the findings to the Panel. She suggested that a case conference should be convened when necessary. Mr MA Fung-kwok supported Mrs Selina CHOW's suggestion.

51. The Chairman concluded that the Panel requested the Administration to follow up with HKPC on the complaints expeditiously and report the outcome to members. CIT(Atg) said that she would discuss with HKPC further on following up the complaints and inform members of the outcome.

ITC

VII Any other business

52. There being no other business, the meeting ended at 7:00 pm.

Legislative Council Secretariat
7 October 2002