

立法會
Legislative Council

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**Report of the Panel on Commerce and Industry
for submission to the Legislative Council**

Purpose

The report gives an account of the work of the Panel on Commerce and Industry during the Legislative Council session 2001-2002. It will be tabled at the meeting of the Council on 3 July 2002 in accordance with Rule 77(14) of the Rules of Procedure of the Council.

The Panel

2. The Panel was formed by a resolution passed by the Council on 8 July 1998 and as amended on 20 December 2000 for the purpose of monitoring and examining Government policies and issues of public concern relating to trade and industry matters. The terms of reference of the Panel are at **Appendix I**.

3. The Panel comprises 12 members, with Hon Kenneth TING Woo-shou and Hon HUI Cheung-ching elected as Chairman and Deputy Chairman respectively. The membership list of the Panel is at **Appendix II**.

Major work

Protection of intellectual property

4. The Copyright (Suspension of Amendments) Ordinance 2001 (the Suspension Ordinance), which suspended the end-user criminal liability provisions in possession of copyright infringing articles in business as effected by the Intellectual Property (Miscellaneous Amendments) Ordinance 2000, was enacted in June 2001. It aimed to address the grave public concern about the provisions impairing the dissemination of information and educational activities. The Administration published a public consultation document on "Review of Certain Provisions of Copyright Ordinance" in November 2001 to invite public views on key issues, including end-user criminal liability, scope of

statutory exemptions from liability in using copyright works, parallel importation of copyright works other than computer software, unauthorized reception of subscription television programmes and registration of licensing bodies.

5. In view of the community's concern on copyright issues, the Panel held a special meeting to hear views from 41 organizations, which included copyright owners associations, educational bodies, press and broadcasting bodies, and trade associations. It also received a total of 46 submissions from interested parties. Members took note of the deputations' concerns and reflected them to the Administration for consideration. In general, members shared the deputations' view that imposing criminal liability on end-users was too harsh. They also supported providing more statutory exemptions in using copyright works for educational and non-profit-making purposes. The Panel noted the Administration's plan to introduce a bill to the Council to deal with issues related to end-user criminal liability before the expiry of the Suspension Ordinance on 31 July 2002. The bill would make permanent the arrangement in the Suspension Ordinance so that end-user criminal liability were confined to only four categories of copyright works, namely, computer programmes, movies, television dramas, and musical recordings. The Administration would also propose to the Council to extend the suspension period of the Suspension Ordinance to allow more time for the Council to examine the bill. Members further noted that the Administration would adopt a non-statutory approach to clarify the scope of certain statutory permitted acts in order to provide greater certainty to teachers in photocopying and downloading copyright works for classroom use.

6. On other issues covered in the consultation document, the Panel was particularly concerned about the problem of pirate viewing of subscription television programmes. Members noted that the Administration would introduce both civil remedy and criminal sanction against the possession of unauthorized decoders for commercial purpose. It would introduce civil remedy against fraudulent reception of subscription television programmes for domestic use and encourage operators to digitize their services. The Panel noted the Administration's undertaking to take prompt action to introduce criminal sanction against end-users should the problem remain prevalent after digitization.

7. As regards the issue of exempting the showing of copyright works or playing in public a broadcast or cable programme from paying copyright royalties, while some members supported providing exemption to all public places, the Panel noted the Administration's view that providing across-the-board exemption would breach international obligations to protect intellectual property rights. The Administration would consider providing exemptions to guest rooms of hotels and public transport, as well as some public places under certain conditions.

8. In respect of parallel importation of copyright works other than computer software, while members noted that removing restrictions on parallel importation would enhance competition and availability of products in the market, they recognized the concerns of some industries, in particular the local film making and music industries, that the relaxation would affect their business seriously. In this regard, the Administration would maintain the status quo, but remove the criminal and civil liability for importation and possession of parallel-imported goods by end-users.

Support measures to facilitate trade and to maintain a business-friendly environment

9. On measures to facilitate trade and business operation, the Panel was consulted on the Administration's legislative proposal to extend the Open Bond System to all bonded warehouses in Hong Kong. Having regard to the benefits of reducing compliance costs for the trade and inducing new business opportunities, members supported the proposal.

10. In order to further improve efficiency and effectiveness in handling trade documents under the Textiles Trader Registration Scheme (TTRS), the Panel supported a proposal to extend the Electronic Data Interchange (EDI) services to the TTRS. Members also supported a proposal to upgrade and enhance Government's back-end computer system for EDI services to cater for expansion in service and expected increase in the number of new service providers for EDI services after the expiry of Tradelink's exclusive franchise by the end of 2003.

11. The Panel strongly urged the Administration to step up its efforts in improving the business environment. Members stressed the need for the Administration to have a clear vision of the direction of economic development and devise comprehensive policies and concrete programmes in consultation with the business community in order to help reduce compliance cost and enhance Hong Kong's competitiveness. The Administration re-iterated its commitment to creating a more business-friendly environment and acting as a proactive market enabler to foster economic development. On concrete programmes to help the business community, the Administration launched the Helping Business Programme in 1997. Since then, over 90 helping business studies aimed at reviewing government regulations and streamlining procedures to improve services to the business community were completed and new measures to facilitate business operation introduced.

12. The Panel was consulted on the proposed construction of a new Customs Headquarters building in North Point. Members agreed that the project, which aimed at centralizing Customs and Excise Department's dispersed offices, would help improve operational efficiency. However, they expressed grave concern over the high capital cost of \$1 143.3 million for the project and

the new facilities to be provided in the new accommodation. The Administration was requested to provide detailed information on project cost and justifications for new facilities for further deliberation by the Panel.

Support for small and medium enterprises (SMEs) and the professional service sectors

13. Recognizing the important role played by the over 300 000 SMEs in the local economy, the Panel welcomed the Administration's proposal to establish four SMEs funding schemes in late 2001 with financial commitment amounting to \$1.9 billion to help SMEs secure loans for purchasing business installations and equipment, expanding markets, providing training for employers and employees, and upgrading their overall competitiveness.

14. Members noted that up to mid-May 2002, the four funding schemes received over 5 400 applications and approved some 4 300 projects with a total sum of \$430 million. As the majority of the applications was from the manufacturing industries, members were concerned that other sectors, such as the wholesale and retail sector, might not benefit from the funding schemes. Moreover, members also urged the Administration to increase funding for the schemes in order to enhance support to SMEs. The Administration assured members that it would continue to reach out to SMEs of various trades and businesses in promoting the funding schemes and would conduct a comprehensive review on the funding levels, cost-effectiveness and the modus operandi of the schemes one year after they started operation.

15. Having regard to the further opening up of the market for various professional services upon China's accession to the World Trade Organization (WTO), the Panel supported the Administration's proposal to set up a \$100 million Professional Services Development Assistance Scheme to enhance the external competitiveness and the standard of Hong Kong's professional services to help them grasp the opportunities. The Administration took note of members' view on the need to cover some high-value professional service sectors, such as information technology services and financial services, and extended the scope of the scheme to include information technology consultancy services and financial consultancy services.

Strengthening Mainland-Hong Kong economic and trade links

16. With the increased flows of people, freight, capital and information between Guangdong Province and Hong Kong, members saw an urgent need to foster closer economic link with Guangdong Province. Against such background, the Panel supported the setting up of the Hong Kong Guangdong Cooperation Coordination Unit (HKGCCU) to coordinate and spearhead initiatives in this area, and the establishment of the Hong Kong Economic and Trade Office (HKETO) in Guangzhou in mid-2002 to promote economic and

trade relations between the two places. Members urged that the HKGCCU and HKETO should assist Hong Kong enterprises in overcoming difficulties they encountered in the Mainland. The Administration assured the Panel that HKGCCU would help enhance business cooperation between Hong Kong and Guangdong to create a favourable business environment in both places. The HKETO would strengthen communication with Hong Kong businessmen in Guangdong and provide assistance where appropriate, such as referring commerce and trade-related concerns for follow-up by relevant Guangdong authorities. However, HKGCCU and HKETO were not in a position to arbitrate on individual commercial and legal disputes. On some members' concern about assistance for Hong Kong businessmen detained in the Mainland, the Administration advised that a notification system was in place under which the detainees and their families could seek assistance from the Security Bureau and the Immigration Department.

17. The Panel noted the efforts of the Administration in pressing ahead consultation with the Mainland on establishing the Closer Economic Partnership Arrangement through which local enterprises and service providers could gain better access to the opening Mainland market. Formal discussion with the Mainland authorities began in early 2002. Both sides agreed on basic principles, mode of operation and channel for discussion in taking forward the proposed arrangement with a view to achieving continuous progress.

Promoting investments in Hong Kong

18. Noting that the provision of a new exhibition centre in Chek Lap Kok would help maintain Hong Kong's competitiveness in capturing the growing exhibition business in the Asia-Pacific region and attract overseas investment, the Panel followed new developments on the project closely.

19. The Panel was consulted on the Administration's proposal to invest a maximum of \$2 billion for constructing a 50 000 m² net usable area centre in conjunction with the Hong Kong Airport Authority (AA), and to select an international private sector developer consortium to finance the balance of the construction cost as well as develop and operate the new facility. While the Panel expressed broad support for the project in view of its enormous economic benefits, some members expressed reservations over the size of the new centre and the substantial financial commitment on the part of the Government. Some members were of the view that the new centre must have at least 100 000 m² for it to stay competitive. Others opined that the project should be taken up by the private sector. There were also concerns about the future management of the new centre and the level of charges for the facility. The Administration revised its proposal, taking into account views from members and the exhibition industry. The Panel noted that AA would make available a site for constructing a 100 000 m² net usable area centre on the existing airport island, and the Administration would contribute up to \$2 billion towards the

construction cost and the necessary infrastructure. Private sector consortia would be invited to express their initial interest for developing the project and submit business plans for a new centre of 80 000 m² to 100 000 m² of exhibition space, with details on design, management and operation of the new centre. A small number of potential partners would be shortlisted, and the Administration would firm up the proposal and seek approval of the Finance Committee for the Government's contribution. It was envisaged that the project would be competitively tendered in early 2003, and the new centre would commence operation in mid-2005.

20. The Panel noted that the overseas HKETOs continued with their hard work to broaden contacts and liaison networks for promoting investment in Hong Kong. As regards the impacts of the terrorist attacks in the United States on 11 September 2001 on investment in Hong Kong, members noted from the briefing by the Heads of HKETOs that such impact was insignificant and the focus of international investment was shifted to China after its accession to the WTO. Hong Kong with its pool of talents and professionalism would continue to serve as the strategic base for foreign investors to develop their business in the Mainland.

Infrastructural support for technology-related industries

21. The Panel was briefed on the findings and recommendations of the consultancy study to review the role, management and operation of the Hong Kong Productivity Council (HKPC). Members agreed that HKPC's future service focus should be on manufacturing industries and that its geographical focus should expand to the Pearl River Delta to provide service to local enterprises operating in the area. However, members expressed concern over HKPC's increasing involvement in the information technology (IT) sector as a service provider, which might pose unfair competition to private companies. The Administration stressed that HKPC had an important role in providing IT support services to SMEs. Nonetheless, it assured members that HKPC would critically review its services to avoid competition with the private sector. On the option to corporatize HKPC, members noted the consultant's view that the public service mission of HKPC would be best ensured if it continued as a council. They also noted that in order to enhance HKPC's financial accountability, the Administration would consider introducing programme and project based funding arrangements instead of providing HKPC with block subvention.

22. The Panel noted the new improvement measures identified in the review on the Innovation and Technology Fund (ITF). Members concurred that to make the best use of existing resources, the Administration should focus development on key technology areas, such as nanotechnology and digital entertainment, where Hong Kong had the potential to excel and compete with others. Noting that the results of the majority of completed ITF projects were

not commercialized and there was little technology transfer to industry, members urged the Administration to strengthen vetting and monitoring mechanism for ITF projects in order to ensure the objectives of the fund were met and that financial accountability of institutions concerned was enhanced. Members welcomed the proposed development of a three-tier project evaluation system for assessing the cost effectiveness of ITF at the project and programme levels, and through impact studies. They noted the Administration's undertaking to work out the details and implement the new evaluation system in 2003.

23. The Panel was briefed on the Administration's efforts in helping new technology start-up companies through the provision of seed money under ITF programmes and incubation services by the Hong Kong Science and Technology Park Corporation. As a venture capital fund making equity investment in technology start-up companies, the Applied Research Fund (ARF) helped companies with commercial potential grow and expand further. Members noted with concern the substantial loss in ARF investment due to general adverse economic situation worldwide and the downturn in technology business in recent years. In view of the fund's poor performance and the presence of other venture capitalists, members urged the Administration to critically review the need for ARF. In this regard, the Administration drew members' attention to the important role of ARF in supporting technology start-up companies at the current difficult time and the opportunities for ARF to invest in quality companies at low cost and with less competition. Nonetheless, the Administration undertook to closely monitor the situation and consider members' views. It would continue to provide the Panel with quarterly reports on ARF.

24. During its deliberation on the findings and recommendations of the consultancy study on environmental technology industry in Hong Kong, members stressed the need for the Administration to strengthen its policy, infrastructure, economic, information, technical, and marketing support in helping the development of the industry and assisting local enterprises to capitalize the economic and business opportunities ahead.

**Legislative Council
Panel on Commerce and Industry**

Terms of Reference

1. To monitor and examine Government policies and issues of public concern relating to commerce, industry, business and services promotion, innovation and technology, intellectual property protection and inward investment promotion matters.
2. To provide a forum for the exchange and dissemination of views on the above policy matters.
3. To receive briefings and to formulate views on any major legislative or financial proposals in respect of the above policy areas prior to their formal introduction to the Council or Finance Committee.
4. To monitor and examine, to the extent it considers necessary, the above policy matters referred to it by a member of the Panel or by the House Committee.
5. To make reports to the Council or to the House Committee as required by the Rules of Procedure.

**Legislative Council
Panel on Commerce and Industry**

Membership list

Chairman	Hon Kenneth TING Woo-shou, JP
Deputy Chairman	Hon HUI Cheung-ching, JP
Members	Dr Hon LUI Ming-wah, JP Hon NG Leung-sing, JP Hon Mrs Selina CHOW LIANG Shuk-ye, JP Hon CHEUNG Man-kwong Hon CHAN Kam-lam Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP Hon SIN Chung-kai Hon CHOY So-yuk Hon Henry WU King-cheong, BBS Hon MA Fung-kwok (Total : 12 Members)
Clerk	Ms Connie SZETO
Legal Adviser	Miss Anita HO
Date	11 October 2001