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**Legislative Council**

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**Panel on Commerce and Industry**

**Minutes of meeting**  
**held on Monday, 13 January 2003, at 3:00 pm**  
**in the Chamber of the Legislative Council Building**

- Members present** : Hon Kenneth TING Woo-shou, JP (Chairman)  
Dr Hon LUI Ming-wah, JP  
Hon NG Leung-sing, JP  
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP  
Hon CHAN Kam-lam, JP  
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP  
Hon SIN Chung-kai  
Hon Henry WU King-cheong, BBS, JP  
Hon MA Fung-kwok, JP
- Non-Panel Members attending** : Hon Martin LEE Chu-ming, SC, JP  
Hon Margaret NG  
Hon CHAN Yuen-han, JP  
Hon Howard YOUNG, JP  
Hon Emily LAU Wai-hing, JP  
Hon Li Fung-ying, JP
- Members absent** : Hon HUI Cheung-ching, JP (Deputy Chairman)  
Hon CHEUNG Man-kwong
- Public officers attending** : Mr Henry TANG  
Secretary for Commerce, Industry and Technology
- Miss Denise YUE  
Permanent Secretary for Commerce, Industry and  
Technology (Commerce and Industry)

Mrs Sarah KWOK  
Acting Commissioner for Innovation and Technology

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

**Staff in attendance** : Ms Pauline NG  
Assistant Secretary General 1

Mr TSANG Siu-cheung  
Senior Assistant Secretary (1)7

Ms Christina SHIU  
Legislative Assistant

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Action

**Briefing by the Secretary for Commerce, Industry and Technology on the relevant policy initiatives featuring in the Chief Executive's 2003 Policy Address**

(LC Paper No. CB(1) 694/02-03(01))

The Secretary for Commerce, Industry and Technology (SCIT) briefed members on the policy initiatives and main tasks in respect of the programmes relating to commerce and industry featuring in the Chief Executive's 2003 Policy Address. The details were set out in the information paper provided by the Administration.

Development of creative industries and the protection of intellectual property rights (IPR)

2. Mr SIN Chung-kai supported the Government in promoting the development of creative industries in Hong Kong. However, he considered excessive intervention from the Administration inappropriate as it would stifle the development of these industries. In his view, the Administration had to attach importance to safeguarding the interests of copyright owners when developing creative industries in Hong Kong. Given that many local products (particularly audio-visual products) were subjected to rampant copyright infringements in the Mainland, Mr SIN considered it necessary to actively reflect the problem to the Mainland authorities and formulate specific measures to explore possible solutions..

3. SCIT agreed that under the knowledge-based economy, it was the Administration's responsibility to protect the interests of copyright owners. He advised that the existing Copyright Ordinance of Hong Kong, which was recognized and used as reference by other jurisdictions internationally, fully met the standards laid down in the Agreement on Trade-Related Aspects of Intellectual Property Rights of the World Trade Organization (WTO). As IPR protection was a vital element in fostering the development of creative industries in Hong Kong, he undertook that the Administration would vigorously maintain a robust IPR regime. Regarding copyright piracy in the Mainland, SCIT responded that the Administration had kept on reflecting its relevant views to the Mainland authorities and discussions were held to seek solutions. Other WTO Member States were also very concerned about this issue. He advised that as the Mainland had already enacted legislation on IPR protection, the serious piracy problem might be attributable to inconsistencies in enforcement. He emphasized that while the Administration was aware of the importance of IPR protection, it had to respect the enforcement powers of the Mainland authorities. Mr SIN urged the Administration to strengthen the protection of IPR so as to provide room for favourable development of creative industries.

4. Mr Martin LEE supported the Government in developing local creative industries. He was concerned that Article 23 of the Basic Law (BL23) would undermine the environment of freedom in Hong Kong, thus affecting the development of the economy and creative industries. SCIT advised that as far as he understood, there was no conflict between BL23 and the development items of creative industries such as the design and development of fashion, multi-media and digital entertainment products. Noting the opposition of individual trade organizations expressed in relation to BL23, he advised that their views would be reflected to the Secretary for Security.

5. Mr NG Leung-sing enquired whether the Administration had considered the adverse impacts creative industries might have on social moral while promoting their development. SCIT responded that since social moral was constantly changing, there was no hard and fast rule to determine which products fully conformed to moral standards. He said that innovative audio-visual products were currently regulated by such legislation as the Film Censorship Ordinance, and the Control of Obscene and Indecent Articles Ordinance.

6. On IPR protection, Mr MA Fung-kwok considered that the liberalization of parallel importation provided in the Copyright (Amendment) Bill 2001 (the Amendment Bill) should be confined to computer software. While a robust IPR regime formed an integral part of a knowledge-based economy, SCIT reiterated that the Administration would strike a balance between the interests of copyright owners and consumers through legislation and enforcement. It would also provide creative industries with room for development. On the one hand, the Administration would combat vigorously piracy activities; on the other hand, it would allow parallel importation of certain types of products to meet community needs. Regarding the existing 18-month threshold for parallel importation of audio-visual products, he considered it an appropriate arrangement which was in

the interest of the industry. As for the liberalization of parallel importation of computer software incorporating some audio-visual components as proposed in the Amendment Bill, SCIT considered such a practice reasonable and in line with the development trend of multi-media products. On the copyright issues relating to electronic books, the Administration did not have a predetermined position. However, it would continue to receive views from various parties. The interests of copyright owners and the room for creativity in developing such products would be taken into consideration when legislative amendments were introduced.

7. Miss CHAN Yuen-han opined that in developing creative industries in Hong Kong, the Administration had to attach importance to the IPR of original products. She remarked that in order to promote the development of local creative industries systematically, it was necessary to establish an appropriate development framework first. Taking the United Kingdom (UK) as an example, the Government concerned had established an inter-departmental working group to coordinate the development of creative industries and conduct regular reviews to assess the latest development of the various selected creative industries. The UK Government had also designated an exclusive area to serve as the development base for creative industries with a view to stimulating new ideas through interactions among industries. Technical and financial support would be available as well. Miss CHAN suggested that the steering group set up by the Administration should make reference to the UK approach and formulate specific measures to facilitate the development of local creative industries.

8. SCIT reiterated that the Administration was committed to protecting IPR and at the same time, it would also prevent the relevant legislation from stifling the development of creative industries as far as possible. In response to Miss CHAN's suggestion, he said that the Administration was willing to draw reference from overseas practices. According to his understanding, creative industries contributed to 8% and 2% of the Gross Domestic Product of the UK and Hong Kong respectively. As such, local creative industries had much room and potential for development. He remarked that the Administration was prepared to explore ways to develop local creative industries as well as discussing the issue at Panel meetings in due course.

9. In reply to Miss CHAN's enquiry, SCIT said that the steering group had already achieved some progress in promoting the development of local creative industries. For example, the Administration would organize and coordinate relevant activities through the newly established Hong Kong Design Centre to promote the local design industry as a high value-added creative industry. It also planned to establish an integrated circuit design support centre in the Science Park to facilitate the development of creative industries relating to electronics industry. Moreover, it intended to set up a digital media centre in the Cyberport to enable enterprises engaging in the businesses of digital entertainment and multi-media design to share the use of costly development facilities. This would encourage more interested parties to engage in creative

industries. He undertook that the Administration would report the latest development of creative industries to the Panel on a regular basis.

10. On encouraging innovative designs, Mrs Selina CHOW was concerned about how the Administration would promote local product designs to the Mainland. SCIT pointed out that Hong Kong possessed a favourable design environment, including a free and open social system, free flow of information, etc., which provided local design industry with plenty of room for development. To maintain Hong Kong's competitive edge and the popularity of local design products such as fashion, watches, jewellery among the people in the Mainland, he said that the Administration would organize a series of promotional activities, such as a "Style Hong Kong" exhibition to be organised by the Hong Kong Trade Development Council (HKTDC) in Beijing in March 2003, to promote local product designs to Mainland enterprises. If the activities were well-received, the Administration would consider expanding their scale. Mrs Selina CHOW opined that the Administration should also encourage small and medium enterprises (SMEs) in Hong Kong to use local product designs.

Expediting economic integration with the Pearl River Delta (PRD) and attracting foreign investments

11. Miss Margaret NG was concerned about the preservation of the various systems which were currently in place in Hong Kong when expediting the economic integration with the PRD. Moreover, she was also concerned that the substantial amount of investments Hong Kong made in the Mainland had far outweighed those made by the Mainland in Hong Kong. She enquired about the measures to be taken to attract Mainland enterprises to invest in Hong Kong with a view to stimulating local economic development and providing more employment opportunities for local workers. SCIT responded that since the Mainland opened up to reforms, many local enterprises had gone northward for investment. It was estimated that at present, Hong Kong enterprises had employed a total of 10 million Mainland workers in the PRD. This figure indicated that local enterprises had integrated with the Mainland market to a considerable extent. He opined that the main task for the time being was to expedite the passenger and cargo flow between the two places through enhanced communication and cooperation. He stressed that under the principle of "one country, two systems", the Administration would strive to maintain Hong Kong's free market economy and uphold its autonomy over trade and economic policy as a separate customs territory in order to actively protect the interests of Hong Kong. SCIT added that the Administration had been encouraging Mainland enterprises to come to Hong Kong for investment and capital-raising. Invest Hong Kong (IHK) would continue with and step up its work in this area.

Admin 12. Responding to Miss Margaret NG's enquiry, SCIT undertook to provide information on the investments made by Mainland enterprises in Hong Kong after the meeting. He remarked that the current strategy of the Administration was to focus on promoting Hong Kong's development edge to foreign enterprises through IHK so as to attract inward investment. He pointed out that

in attracting inward investment, Hong Kong currently ranked second in the world after the Mainland. The number of foreign enterprises which had established their regional headquarters and offices in Hong Kong increased substantially every year. Over 3 000 foreign enterprises had established their regional headquarters and offices in Hong Kong as of June 2002. Looking forward, he anticipated that with the joint efforts of IHK and other relevant organizations, such as HKTDC, the Office of the Government of the Hong Kong Special Administrative Region in Beijing (BJO) and the Hong Kong Economic and Trade Offices in overseas countries and Guangdong (GDETO), the Administration would be able to establish a platform at international standard for bi-directional trade development and investments.

13. Regarding expediting economic integration with the PRD, Mr CHAN Kam-lam considered that the Administration should strengthen communication with the relevant provincial and municipal authorities in the Mainland. This would provide a basis for the development of mutual trust and reciprocity. SCIT agreed that the complementary advantages of Mainland and Hong Kong could only be brought into play when close cooperation and mutual trust existed between the authorities of both places. He advised that the Administration would enhance mutual understanding through BJO and GDETO in order to tap into such complementary advantages. Mr CHAN Kam-lam suggested that the Administration should consider conducting regular meetings with the PRD authorities for the purpose of expediting economic integration of both places.

14. As regards Mr NG Leung-sing's enquiry about how the "Mainland/HK Closer Economic Partnership Arrangement" (CEPA) would facilitate the development of local enterprises in the Mainland, SCIT replied that the two parties would reach an agreement on the main parts of the arrangement by June this year. As to whether this arrangement could help to promote Hong Kong's traditional industries, such as the agriculture and fisheries industries, as stated in the Policy Address, SCIT advised that the issue would be forwarded to the relevant bureau for follow-up.

15. On Mrs Selina CHOW's suggestion that the Administration should make use of CEPA to seek access for local enterprises to establish tourism businesses in the Mainland and solve the operational problems encountered by local retail enterprises going northward for development, SCIT appreciated the concerns and demands of the industries and advised that CEPA, which would be implemented shortly, should cover these issues.

16. Mrs Selina CHOW was concerned about whether the terms of reference of GDETO would be further expanded to include providing support to local SMEs which developed their businesses beyond Guangdong Province. SCIT replied that there were no such plans at present. He stressed that if local SMEs encountered any difficulties outside Guangdong Province, they could approach BJO for assistance. However, neither GDETO nor BJO was in a position to interfere with commercial disputes between Hong Kong businessmen and the

Mainland parties.

17. As regards the development of the PRD, Ms Emily LAU was concerned about the number of Mainland enterprises which had established their regional headquarters or offices in Hong Kong, the industries to which they belonged and the employment opportunities so provided. She enquired whether the Administration had set up a steering group to coordinate the development of the PRD. Furthermore, she opined that the Administration had to strengthen communication and cooperation with the Guangdong authorities in order to capitalize on the complementary advantages of the two places. SCIT agreed that Hong Kong and the PRD had their own economic advantages. An expeditious economic integration of the two places would be conducive to enhancing their competitiveness in the international market. He pointed out that since the Mainland opened up to reforms, a good partnership had been established between Guangdong and Hong Kong. In proposing an expeditious economic integration with the PRD in the Policy Address, it was hoped that the development of the two places could be elevated to a higher level through further coordination of certain issues, particularly logistics. He said that the Administration had formed a task force comprising relevant officials and chaired by the Financial Secretary (FS) to actively implement the arrangements for the economic integration with the PRD.

18. As for attracting inward investment, SCIT advised that IHK had been making efforts to attract foreign enterprises, including those from the Mainland, to establish regional headquarters and offices in Hong Kong. IHK had set a target in 2003 to attract more than 100 foreign enterprises to invest in Hong Kong and set up their regional headquarters and offices here.

19. Ms Emily LAU concurred that Hong Kong had its unique advantages in attracting foreign enterprises to invest in the PRD and played an important role as its window. She opined that apart from targeting at large multi-national companies, the Administration should also attract overseas SMEs with development potentials to invest in Hong Kong. Noting Ms LAU's suggestion, SCIT added that foreign enterprises often made use of Hong Kong's knowledge in the Mainland's politics, economy, society and culture as a favourable foothold to access the Mainland market. The Administration would spare no effort to improve the local business environment and enhance the transparency of the existing systems with a view to attracting more inward investment to Hong Kong and then the PRD. The FS would head a high level task force to study vigorously ways to improve the local business environment.

20. Responding to Ms Emily LAU's enquiry, SCIT advised that IHK would optimize the use of existing resources and keep on attracting foreign enterprises to invest in Hong Kong and the PRD. Corresponding measures would also be taken by HKTDC in this respect.

Support for SMEs

21. Mr Henry WU welcomed the Administration's continuous support provided to SMEs in Hong Kong. He enquired whether the Administration would include SMEs in the financial sector as one of the target beneficiaries when assisting SMEs in opening up the Mainland market. SCIT advised that the Administration provided equitable support for SMEs including the ones in the financial sector. He pointed out that recently, BJO had invited SMEs in the local financial sector to participate in a promotional activity held in Jiangsu Province.

22. Mr Henry WU suggested that the Administration should focus on supporting SMEs of smaller scale. In response, SCIT advised that among the four existing SME funding schemes, the SME Export Marketing Fund and the SME Training Fund accepted applications from SMEs of different scales in all industries. Moreover, HKTDC and other industrial organizations had also assisted SMEs, including those in the financial sector, in participating in various market development activities.

Abolition of textiles quota restrictions

23. In view of the abolition of textiles quota restrictions in early 2005, Miss LI Fung-ying enquired whether the Administration had assessed its implications on Hong Kong's textile industry and economy, and formulated appropriate measures to address the issue. Furthermore, she was concerned that the promotion of Hong Kong's service industry to the Mainland and the shift in the focus of development to the north would directly affect the employment situation in Hong Kong. SCIT responded that the Administration was still studying the possible implications of the abolition of textiles quota restrictions and had not yet worked out any concrete measures. He anticipated that in one or two years' time, some textile importing countries, including the United States, would negotiate with the Administration about the relevant control measures. Referring to the employment situation of the local service industry as mentioned by Miss LI, he advised that the situation would be closely monitored. However, he stressed that it was necessary to open the market in order to effectively improve Hong Kong's economy and competitiveness.

Improving the business environment

24. Mrs Sophie LEUNG stressed that an open economy was a prerequisite for creating a business-friendly environment in Hong Kong. With regard to the ways to improve Hong Kong's business environment, she held that the Administration should fully examine the issue in its entirety from a macro perspective if effective and concrete measures were to be formulated. SCIT responded that at present, Hong Kong had a business-friendly environment and was commended as one of the economies with maximum freedom in the world. He pointed out that Hong Kong had built its business-friendly environment mainly on its simple, transparent and fair investment regime. With the go-



getters' spirit of Hong Kong people seeking self-reliance, self-improvement and breakthrough, he was confident that local enterprises would be able to enhance its competitiveness to face up to greater challenges.

### Other concerns

#### *Implementing the new Trade Marks Ordinance*

25. Given the passage of the new Trade Marks Ordinance (the new Ordinance) by the Legislative Council in May 2000, Miss Margaret NG said that the trade was very concerned about its commencement date. In response, the Permanent Secretary for Commerce, Industry and Technology (Commerce and Industry) advised that the Administration planned to implement the new Ordinance in early 2003. To tie in with the implementation of the new Ordinance, the Intellectual Property Department (IPD) had installed a new computer system to handle electronic filing of applications for trademark registration and related matters. Moreover, the Director of IPD had made the Trade Marks Rules (the Rules) under the new Ordinance to provide for the technical details and procedures of trademark registration. The Administration had held four rounds of consultations with the legal and professional organizations and trade associations. It intended to introduce the new Rules and the commencement notice of the new Ordinance to LegCo in early February for negative vetting after the Panel had completed its discussion. She said that the new Ordinance was expected to come into force in March or April.

26. The Chairman advised that as the meeting today only focused on the briefing by the SCIT on the relevant policy initiatives featuring in the Chief Executive's Policy Address, discussion on matters relating to the new Rules and the commencement notice of the new Ordinance would be deferred to the Panel meeting to be held on 21 January.

#### *Developing a database on patents of electronic products*

27. Responding to Dr LUI Ming-wah's enquiry, SCIT advised that the Administration had been attaching great importance to the development of all industries in Hong Kong, including the electronics industry. The Acting Commissioner for Innovation and Technology supplemented that the Administration strove to keep abreast of the latest technologies of overseas countries and maintained close liaison with the industries. It also provided adequate support and assistance to local industries in terms of technological development and transfer through the Innovation and Technology Fund and the Hong Kong Productivity Council.

28. Given the rapid development of the electronics industry and the wide range of electronic products available in the market, Dr LUI suggested that the Administration should consider developing a database on the Internet to provide local enterprises with information on patents of electronic products registered overseas for their reference. This could avoid unnecessary disputes over the

Admin patents arising from the development of electronic products. As Dr LUI's suggestion involved the confidentiality of information on patent registration, SCIT advised that he would take follow-up actions and study the feasibility of the suggestion.

29. There being no other business, the meeting ended at 4:45 pm.

Council Business Division 1  
Legislative Council Secretariat  
26 February 2003