

**立法會**  
**Legislative Council**

LC Paper No. CB(1)2329/02-03  
(These minutes have been seen by  
the Administration)

Ref : CB1/PL/CI/1

**Panel on Commerce and Industry**

**Minutes of meeting**  
**held on Monday, 12 May 2003, 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)  
Hon NG Leung-sing, JP  
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP  
Hon CHAN Kam-lam, JP  
Hon SIN Chung-kai  
Hon Henry WU King-cheong, BBS, JP  
Hon MA Fung-kwok, JP

**Members absent** : Dr Hon LUI Ming-wah, JP  
Hon CHEUNG Man-kwong  
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP

**Public officers attending** : **Item IV**  
  
Mr Donald CHEN  
Principal Assistant Secretary for Commerce, Industry  
and Technology (Commerce and Industry)  
  
Mr Jeffery CHAN  
Assistant Secretary for Commerce, Industry and  
Technology (Commerce and Industry)  
  
Ms Pancy FUNG  
Assistant Director of Intellectual Property

**Item V**

Mrs Sarah KWOK  
Acting Commissioner for Innovation and Technology

Mr Tony LAM  
Assistant Commissioner for Innovation and  
Technology

**Item VI**

Mr Gordon LEUNG  
Principal Assistant Secretary for Commerce, Industry  
and Technology (Commerce and Industry)

Mrs Margaret CHAN  
Chief Executive Officer,  
Commerce, Industry and Technology Bureau

Mr Ben LEUNG  
Senior Staff Officer, Customs and Excise Department

Ms Joyce MOK  
Chief Systems Manager,  
Information Technology and Services Department

Ms Josephine TSE  
Senior Statistician  
Census and Statistics Department

Mr C S LAU  
Trade Officer  
Trade and Industry Department

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

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

Ms Christina SHIU  
Legislative Assistant

---

**I Confirmation of minutes**  
(LC Paper No. CB(1)1616/02-03)

The minutes of the meeting held on 10 March 2003 were confirmed.

**II Information papers issued since last meeting**

2. Members noted that no information paper had been issued since the last meeting.

**III Items for discussion at the next meeting**  
(LC Paper Nos. CB(1)1608/02-03(01) and (02))

3. Members agreed that the next meeting would be held at 4:30 pm on Monday, 9 June 2003.

4. Regarding the withdrawal of Hong Kong exhibitors from the World Jewellery and Watch Fair 2003 that happened earlier, Mr SIN Chung-kai was concerned about the follow-up actions taken by the Administration and the progress of the compensation claims against the Swiss Government and the fair organiser, particularly whether the Administration had brought the case to the World Trade Organisation (WTO) in its capacity of a member to express disappointment over the Swiss Government and lodge a formal complaint. In view of the outbreak of Severe Acute Respiratory Syndrome (SARS) and its anticipated impact on the international exhibitions to be held in Hong Kong or elsewhere in the second half of 2003, he requested the Administration to provide information on such exhibitions, including the dates, venues, rescheduling arrangements and contingency measures in place. Members agreed that the issue raised by Mr SIN should be included in the agenda of the next meeting.

*(Post meeting note: As requested by the Administration and with the concurrence of the Chairman, the item on “Further Support to Small and Medium Enterprises (SMEs) under the SME Funding Schemes” would also be discussed at the Panel meeting to be held on 9 June 2003.)*

5. Concerning the plan to relaunch Hong Kong’s economy after the SARS outbreak in order to restore overseas investors’ confidence in Hong Kong, Mr NG Leung-sing suggested that an information paper should be provided to set out the details of the measures adopted by the Commerce and Industry Branch in this respect, their implementation timetable, as well as how their effectiveness would be evaluated.

**IV Draft Copyright (Prescription of Copyright Registers) Regulation 2003**  
(LC Paper No. CB(1)1608/02-03(03))

6. The Principal Assistant Secretary for Commerce, Industry and Technology (Commerce and Industry) (PASCIT(CI)) briefed members on the details of the draft Copyright (Prescription of Copyright Registers) Regulation (the Regulation) as set out in the information paper provided by the Administration. He explained that to ensure transparency, fairness and compliance with the most favoured-nation provision in the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) of WTO, the Administration considered that only registers established by statutes should be prescribed under section 121(16) of the Copyright Ordinance (Cap. 528) (the Ordinance). As the registers maintained by the United States (US), Canada and India had been identified as meeting the criterion, the Administration proposed that such registers should be included in the list of prescribed Copyright Registers, so that the owner of the copyright work concerned could make use of the mode of filing an affidavit under section 121(2) of the Ordinance to prove his copyright ownership.

7. Mr Henry WU supported in principle the proposal to streamline the legal proceedings against copyright infringement for the convenience of copyright owners. However, he was concerned whether any mechanism was in place to ensure the accuracy of the information in such registers.

8. PASCIT(CI) responded that an affidavit filed by a copyright owner had to be sworn before a counsel or notary public, and the accompanied copy of the certificate of registration had to be certified to be a true copy by the same. Besides, the affidavit would only be regarded as prima facie evidence. Should the defendant have any doubt about the document, he/she might apply to the court for the deponent to appear in court in person to give evidence. He supplemented that as a copyright owner was required to file an affidavit and the certified true copy of the certificate of registration of the work concerned every time such legal proceedings were instituted, the information filed should be updated contents.

The pros and cons of establishing a regime for the prescription of copyright registers and the feasibility of establishing such a regime in Hong Kong

9. Mr CHAN Kam-lam was concerned about why no regime for the prescription of copyright registers was established in Hong Kong to ensure public access to information on copyright owners, to give copyright users a clear picture of the current authorization mechanism and royalty charges, and to facilitate copyright owners in legal proceedings. He considered that the present proposal was convenient for overseas copyright owners only, while the benefits of local copyright owners were ignored. The Chairman shared Mr CHAN's views.

10. PASCIT(CI) advised that according to the relevant international covenants, no formalities were required for copyright protection. In other words, a

copyright work could enjoy the same level of protection whether or not it was registered. He advised that even if a regime for the prescription of copyright registers was in place, a copyright owner was still required to file an affidavit in legal proceedings concerning copyright infringement. The only difference was that instead of submitting the certified true copy of the copyright work, he/she could simply submit the certified true copy of the certificate of registration as legal evidence. He further clarified that unlike overseas copyright owners, local copyright owners had not encountered great difficulties in filing the certified true copies of the affidavit and the copyright work for legal proceedings against copyright infringement. Therefore, the establishment of such a regime was not intended in Hong Kong at this stage.

11. Mr CHAN Kam-lam said that the establishment of such a regime did not mean mandatory registration of copyright work for copyright owners. It was hoped that an official mechanism would be set up for copyright owners to decide whether they would register their copyright work. He considered that a transparent system for the prescription of copyright registers would provide greater legal protection for copyright owners.

12. Mr MA Fung-kwok disagreed with the Administration's view that local copyright owners had not encountered any difficulties in filing the certified true copies of the affidavit and the copyright work for legal proceedings against copyright infringement. He pointed out that as local copyright owners would very often promote and sell their copyright works through their agents, they encountered the same difficulties as overseas copyright owners did in providing the certified true copy of the work concerned when filing the affidavit. He suggested that consideration should be given to establishing a regime for the prescription of copyright registers in Hong Kong to protect the benefits of local copyright owners and to streamline the procedures for proof-giving.

13. If it was considered inappropriate for the Government to establish such a regime, Mr CHAN Kam-lam suggested that the Administration should consider recognizing the existing register established by the industry. He stressed that if Hong Kong did not establish its own regime, the recognition of local copyright works in overseas markets would somehow be affected.

14. The Assistant Director of Intellectual Property (ADIP) advised that after checking the relevant information, including the legislation, of various countries, it was found that a lot of countries, including the United Kingdom, Singapore, Australia, etc. had not established such a regime. PASCIT(CI) supplemented that if incidents of copyright infringement of local copyright works took place outside Hong Kong, the copyright owners could still seek compensation through legal means under normal circumstances.

15. As a registration regime had already been established for patent owners, Mr CHAN Kam-lam wondered why such a regime was not applicable to copyright works. PASCIT(CI) explained that patent owners had to register their products before they could enjoy the legal protection. On the contrary, no

formalities had to be done for copyright protection. In other words, even if a regime for the prescription of copyright register did not exist, copyright owners could still seek compensation against infringement from the pirates by legal means.

16. Mr CHAN Kam-lam queried the rationale for prescribing the Copyright Registers of the US, Canada and India. In order to assess the appropriateness of the Administration's proposal, he also enquired about the incidence of legal proceedings instituted in Hong Kong by copyright owners of these three countries. PASCIT(CI) expressed reservation about using the incidence of legal proceedings as the basis for determining whether the copyright register of a particular country should be prescribed. He emphasized that the Administration's proposal complied with the most favoured-nation provision in the TRIPS Agreement of WTO. Although the figures concerning legal proceedings against copyright infringement taken in Hong Kong by overseas copyright owners were not available, the submission from an organisation tabled at the meeting (issued on 13 May 2003 vide LC Paper No. CB(1)1652/02-03) showed that overseas copyright owners were required to take quite a number of legal proceedings for their copyright works against copyright infringement in Hong Kong over the past six months.

17. Mr HUI Cheung-ching asked why a regime for the prescription of copyright registers had been established by only a small number of countries such as the US, Canada and India. PASCIT(CI) explained that as no formalities were required for the protection of copyright works under the relevant international covenants, such regime might not be necessary in a lot of countries. As to countries in which such a regime was established, there were different historical backgrounds for different countries, and therefore it was impossible to generalize.

18. Mrs Selina CHOW had no objection in principle to the proposal of prescribing copyright registers. She pointed out that the establishment of a regime for the prescription of copyright registers in Hong Kong should be a policy decision. She advised that the effective development of creative industries lay in a sound mechanism set up for the protection of intellectual property. To this end, the Administration should actively explore ways to take forward the establishment of such a regime in Hong Kong. PASCIT(CI) advised that Mrs CHOW's views would be taken into consideration.

19. Mr CHAN Kam-lam reiterated the need to establish a regime for the prescription of copyright registers in Hong Kong in order to ensure the necessary protection for local copyright works in the international arena and to give confidence to local creators for developing their creativity.

20. Mr NG Leung-sing was concerned whether the industry had been extensively consulted on the proposal. PASCIT(CI) advised that the Administration's proposal was put forward at the request of some industry

organisations. He said that the Administration would adopt members' suggestion and listen to the views of the industry on the proposal.

Conclusion

CITB

21. The Chairman concluded that while the Panel noted the proposals put forward in the draft Copyright (Prescription of Copyright Registers) Regulation, it urged the Administration to consider members' views, i.e. to examine the feasibility of establishing a regime for the prescription of copyright register in Hong Kong and to consult the industry on related issues extensively. PASCIT(CI) advised that the Administration would follow up members' suggestions. He however pointed out that if the current proposal was considered in parallel with the feasibility of establishing a regime for the prescription of copyright registers, the formulation of the regulation would be delayed. He suggested that the two issues should be dealt with separately. The Chairman, Mr MA Fung-kwok and Mr CHAN Kam-lam opined that the Administration should consider members' views carefully.

**V Development of integrated-circuits design**  
(LC Paper No. CB(1)1608/02-03(04))

22. The Acting Commissioner for Innovation and Technology (ACIT) briefed members on the actions taken by the Administration in supporting the development of integrated-circuits (IC) design in Hong Kong and its proposal to support the establishment of an IC development support centre (ICDSC) by the Hong Kong Science and Technology Parks Corporation (HKSTPC) under the Innovation and Technology Fund (ITF).

Scope and forms of support provided by ICDSC

23. Mr CHAN Kam-lam supported in principle the proposal to establish ICDSC and the funding request. Apart from IC development, he suggested that additional resources should be allocated to develop other high value-added innovative technologies with potential. He further enquired whether the centre would provide technical support and assistance to IC manufacturers whose production process did not take place in the Hong Kong Science and Technology Parks (HKSTP).

24. ACIT responded that individual IC manufacturers could apply for using the facilities in ICDSC even if their IC research and development (R&D) projects were not conducted in HKSTP. In fact, it was the Administration's intention to use ICDSC as the platform and facilities for technology development for the benefit of local IC manufacturers or designers.

25. In response to Mr CHAN Kam-lam's enquiry about the forms of support to be provided by ICDSC, ACIT advised that basically it would provide equipment and software for the use of IC manufacturers and to support IC

designs. Fees would be charged by HKSTPC according to the utilization rates. As equipment and software for IC development were costly, she expected that IC manufacturers' operating costs would be greatly reduced if such facilities were provided by HKSTPC. The mask set of the wafer shuttle services mentioned in paragraph 10(c) of the paper, for example, would allow a maximum of 16 different IC designs in a single process, so that the cost could be shared among a number of manufacturers, thus reducing their financial burden. She supplemented that HKSTPC would announce the details of the charges in due course, and would consult the industry on the operational mode and details of ICDSC. At the request of the Chairman, the Administration would release information on ICDSC to IC manufacturers and provide them with materials on appropriate technical and training support through HKSTPC as soon as possible.

26. Mr NG Leung-sing was concerned whether, after the establishment of ICDSC, the Administration had any plans to co-ordinate the efforts of manufacturers in the industry through joint development projects, with a view to bringing out the competitive edge of Hong Kong's IC development in the region. ACIT advised that Mr NG's views would be actively considered. As companies engaging in IC design in Hong Kong were generally small in scale at present, HKSTPC would promote the development of IC design in Hong Kong through the focused development of a technology platform.

27. In response to Mr NG Leung-sing's enquiry about the estimated growth in Hong Kong's total exports of electronics to be brought about by ICDSC, ACIT advised that no quantitative assessment had been made in this respect yet. However, she expected that ICDSC would be able to raise the level of development of the local electronics industry in terms of technology, design and product R&D, etc., further expand the scope of the existing IC value chain, and benefit some low value-added activities by upgrading their technology levels.

#### Performance evaluation for ICDSC

28. Regarding Mr NG Leung-sing's concern about the operation and performance of ICDSC, ACIT pointed out that the ITF Electronics Projects Vetting Committee, after obtaining the funding approval from the Finance Committee (FC) of the Legislative Council (LegCo), would monitor ICDSC's operation on a regular basis, and biannual progress reports would be published by HKSTPC. The Administration was prepared to update the Panel on the latest position of ICDSC's operation in due course.

#### Cost-effectiveness of ICDSC

29. As the IC development in Hong Kong was lagging behind that in countries such as Taiwan and Japan, Mr HUI Cheung-ching was concerned about the prospect for IC development in future. ACIT advised that while there was still room for further development for the local IC design industry, companies engaged in the business had already been in the market for quite some time. It was understood that there were currently some twenty IC design companies in



Hong Kong, employing about a thousand engineers. She believed that with the strong foundation of the local electronics industry and the IC demand from the electronics industry in the Pearl River Delta (PRD), IC design would have ample room for development.

30. Mr MA Fung-kwok pointed out that in 1999, foreign consortia had once expressed interest in investing and participating in Hong Kong's IC development. Unfortunately, the Administration was not decisive enough to seize that chance. Compared with the support at that time, the present scale of support for IC development provided by the Administration was relatively smaller. As no related production lines were established in Hong Kong, unlike the case of other places such as Taiwan, Mr MA Fung-kwok was concerned about the cost-effectiveness of the proposed ICDSC.

31. ACIT advised that the establishment of ICDSC would help upgrade the technology levels of the local electronics industry, thereby promoting the development of industrial production. As there had been a relative lack of IC designs in the territory, local manufacturers would very often rely on foreign supply in this respect. Hence the establishment of ICDSC would actually remove the existing development barrier encountered by the electronics industry. As regards Mr MA Fung-kwok's suggestion to establish IC production lines in Hong Kong, in view of the considerable development capital required, she did not see any apparent advantage for Hong Kong to introduce such production lines at this time. However, HKSTPC's proposal to establish ICDSC had received general support from organisations in the electronics industry.

#### The ratio of sponsorship from the industry for ICDSC

32. In response to Mr HUI Cheung-ching's concern that HKSTPC was only able to secure sponsorship of \$11.3 million from the industry, ACIT advised that such sum would mainly be used to subsidize the centre's procurement of IC design software and facilities. Based on ICDSC's estimated total expenditure of \$72.6 million in the first year, the above sponsorship from the industry would account for about 16% of its operating costs, which was already higher than the existing requirement under ITF. According to the existing requirement, applicants had to secure sponsorship from the industry amounting to 10% of the total expenditure of the project. Nevertheless, HKSTPC would seek to secure more sponsorship from the industry. As HKSTPC would impose charges on clients of ICDSC, she envisaged that the centre would achieve a balanced budget in the end.

#### Comparison of IC development support elsewhere

33. In view of the considerable growth in the total exports of the local electronics industry in recent years, Mr NG Leung-sing considered it necessary to establish ICDSC to further promote the development of the electronics industry in Hong Kong. In response to Mr NG Leung-sing's enquiry about whether any comparison had been made between IC development support in

Hong Kong and those in other countries, ACIT advised that as the backgrounds, strengths and resources allocated for IC development differed in different countries, it would be difficult for the Administration to make a direct comparison. Nevertheless, reference to overseas experience had been made when the HKSTPC's proposal to establish ICDSC in Hong Kong was put forward. It was understood that IC development in the US, both at technical level and in private sector participation, was more sophisticated and advanced than that of Hong Kong. As for other neighboring countries such as Taiwan and Japan, although these countries were already rather well-developed in the design and production of semiconductors, Hong Kong's comparative merits in the development of IC design could definitely be brought out if local manufacturers could develop this technology area in a timely manner. She supplemented that the huge demand for IC design from the electronics industry in the Mainland, especially in the PRD region, would serve as a backing for IC development in Hong Kong.

Conclusion

ITB

34. As ICDSC would involve huge funding, Mr MA Fung-kwok considered it necessary for HKSTPC to provide the centre's business plans for the first three years for members' reference. ACIT said that the Administration would follow up Mr MA's request.

35. The Chairman concluded that the Panel supported in principle the Administration's proposal to establish ICDSC.

**VI Enhancement of the Government back-end computer system for processing cargo manifests**  
(LC Paper No. CB(1)1608/02-03(05))

36. The Principal Assistant Secretary for Commerce, Industry and Technology (Commerce and Industry) (PASCIT(CI)) briefed members on the supplementary information on the project for the enhancement of the Government back-end computer system for processing cargo manifests (the project), which was provided in response to the issues raised at the Panel meeting on 10 March 2003. The details were set out in the information paper provided by the Administration.

Concerns about expediting the customs clearance process

37. Mrs Selina CHOW said that although paragraph 11 of the paper pointed out that the project could expedite the customs clearance process, she was concerned about the actual time which would be shortened in the cargo clearance conducted by the Customs and Excise Department (C&ED).

38. PASCIT(CI) advised that there was no back-up office support at some existing locations where cargo clearance was carried out by C&ED, especially when cargo inspection for river trade vessels had to be conducted at public cargo

working areas. Judging from the present situation, the average cargo inspection time was three hours for each river trade vessel. It was estimated that, with the implementation of the project, the cargo inspection time would be shortened by approximately one hour, i.e. by one-third of the time currently required. The Senior Staff Officer of the Customs and Excise Department (SSOC&ED) supplemented that this estimate was based on the assumptions that there were twenty containers in each river trade vessel and the cargo inspection time for each container would be shortened by three minutes.

39. PASCIT(CI) pointed out that with reliable information and accurate intelligence analysis, C&ED could effectively identify high-risk cargoes which required detailed inspection. As regards the reasons for the great variations in the cargo inspection time referred to in paragraph 10 of the paper, he explained that if the cargoes concerned had to undergo detailed manual inspection after going through X-ray screening, the time taken would be longer.

40. SSOC&ED added that as the integration of the Government back-end computer system for processing cargo manifests with other related computer systems (for example the computer system for trade declaration) would greatly enhance the effectiveness of cargo inspection, thereby shortening the duration in which cargoes pending inspection would be stored in the container terminals, the inconvenience caused to traders would in turn be minimized.

#### Tendering period of the project

41. Mrs Selina CHOW was concerned about the project's implementation period. Although the Administration had indicated that the implementation period would be reduced from the original twenty-five months to twenty-four months, she opined that it could be further shortened, in particular the Administration should explore ways to enhance the efficiency in tender assessment.

42. PASCIT(CI) advised that although the tender evaluation and selection process could normally be completed in three to four weeks, contract negotiation with the successful bidder would very often take longer time. Mrs Selina CHOW had reservation about the Administration's response, and urged the Administration to consider shortening the tendering period of the project.

#### Concerns about manpower savings

43. Mr HUI Cheung-ching was concerned about the focused reduction in the number of frontline staff due to the implementation of the project. PASCIT(CI) explained that the Administration did not mean to focus on deleting the posts of frontline staff. It only happened that the work processes which would be reduced after computerization were mostly clerical duties performed by frontline staff, such as manual checking of cargo manifest data. He stressed that adjustments on the staffing establishment at the supervisory level would be

considered in the light of actual needs and in compliance with the principles of productivity enhancement when the system was in use.

Concerns about reduction of fines

44. Mr CHAN Kam-lam was concerned about how the implementation of the project would help traders reduce their liability to fines which might be payable under the Import and Export Ordinance (IEO). PASCIT(CI) explained that under IEO, traders were required to lodge trade declarations within 14 days after importing or exporting a consignment. A fine was imposed for failure to do so and/or submission of incorrect value of the consignment. Such fines were imposed on a sliding scale (i.e. the longer the period of non-lodgement, the heavier the fine). With the implementation of the new system, he believed that C&SD would be able to issue reminders or requests for clarification to traders earlier, thereby helping them reduce their liability to penalties.

CITB

45. The Chairman concluded that the Panel supported the project in principle. At the request of Mrs Selina CHOW, the Administration undertook to explain ways to further reduce the tendering period for the project in the paper submitted to FC.

**VII Any other business**

46. There being no other business, the meeting ended at 6:35 pm.