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Panel on Information Technology and Broadcasting

Meeting on 12 March 2007

Background brief on Cyberport Project

Purpose

This paper provides the background to some of the major concerns expressed by Members on the Cyberport Project.

Background

2. The Government's decision to proceed with the Cyberport project was announced in the 1999-2000 Budget as a move to provide the essential infrastructure for the formation of a strategic cluster of information services companies¹. On 17 May 2000, the Government, through three private and wholly-owned companies² set up under the Financial Secretary Incorporated (FSI), signed a Project Agreement with the Cyber-Port Limited, which is a company set up by the Pacific Century Group (PCG) as the Cyberport Developer. The development right of the Cyberport was granted to the Developer on 8 June 2000.

3. The Cyberport Project, which occupies 24 hectares of land at Telegraph Bay, Pokfulam, comprises a Cyberport Portion and an ancillary Residential Portion. The Cyberport Portion was practically completed in June 2004 (though Cyberport 4 was opened in December 2004). It has four office buildings, a hotel and an arcade. According to the LegCo Brief ITBB/CP303/2(00) dated 17 May 2000, the Cyberport Portion aims to create a strategic cluster of leading information technology (IT) and information services (IS) companies and a critical mass of professional IT/IS talents in Hong Kong in the shortest possible time. The Residential Portion, the revenue from which is used to drive the Project, has been developed in phases since September 2004 and will be completed by mid 2008.

Project Agreement

4. On 17 May 2000, the FSI companies signed the Project Agreement with the Project Developer and with its Parent Company, i.e. Pacific Century

¹ 1999-2000 Budget Speech, paragraph 59

² The three companies are Hong Kong Cyberport Development Holdings Ltd, Hong Kong Cyberport Management Company Ltd, and Hong Kong Cyberport (Ancillary Development) Ltd.

CyberWorks Limited. The Project Agreement provides a detailed, legally binding contract for the whole project period which would last from the commencement of the Cyberport works (mid-2000) to completion of the sale of all the units in the Residential Portion (at least up to mid-2007). Some of the terms of the Project Agreement which set out the respective obligations of the Government and the Developer are set out below:

Capital contribution and return on Government's investment

5. According to the Project Agreement, the Government is to contribute the land and provide the basic infrastructure, such as roads and sewage treatment, for the Cyberport development. Its capital contribution to the Project is the Residential Portion Land Value which was assessed by the Lands Department on the date of the grant of the development right to the Cyberport Developer (\$7.93 billion including the estimated cost of \$1.1 billion for the basic infrastructure). The capital contribution of the Cyberport Developer is the funding it provided to finance the construction costs and related expenses of the Project (\$4.36 billion).

6. After deducting the relevant expenses due and payable and setting up reserve funds (such as the Development Maintenance Fund to upkeep and maintain the shared Cyberport facilities) as per the Project Agreement, the surplus proceeds from the sale of the residential units will be shared according to the respective capital contributions of the Government (64.5%) and the Developer (35.5%). The first distribution of surplus proceeds was made on 9 August 2004, with the Government receiving about \$1.67 billion out of a total of \$2.59 billion available for distribution on that date. In June and September 2005, the Government received the second and third distributions of the surplus proceeds totaling about \$1.33 billion out of a total distribution of \$2.06 billion. The total cumulative surplus distribution received by the Government as at May 2006 was about \$3 billion. Further distributions of surplus proceeds will be made up to 2010.

7. The FSI companies will retain 100% ownership of the Cyberport Portion, and the rental income and any other income to be generated from the Cyberport Portion belong to the FSI companies.

Take-up guarantee

8. Under the Letter of Intent signed between the Government and PCG on 2 March 1999, PCG undertook to occupy at least 7000 sq.m. of office space in Cyberport Phase I, and to take up extra space (not less than 20% and not more than 50% of the total office space within the first five years of completion) if the remaining space of the Cyberport Portion was not taken up by other tenants 36 months after completion of construction. However, this proposed take-up guarantee by PCG is not included in the Project Agreement as the Administration considered that:

- (a) if the take-up guarantee were to be kept in the Project Agreement, a long term commitment would have been given to PCG and too little space would have been left to accommodate the over 120 companies

which had registered interest in becoming Cyberport tenants as at May 2000; and

- (b) it would have been perceived to be excessive and over-dominating for one single company to occupy 20% to 50% of the space available in a Government-owned IT infrastructure.

The Administration's decision to drop the proposed take-up guarantee by PCG from the Project Agreement was reported to Members vide LegCo Brief ITBB/CP303/2(00) dated 17 May 2000, and was also highlighted to the Panel at its meeting held on 12 June 2000.

Marketing and promotion

9. The Developer has to work together with the FSI companies in general marketing and promotion of the Cyberport Project. The FSI companies and their nominated representatives may also engage in any general marketing and promotion of the Project and charge the expenses to the Project.

Major concerns expressed by members

10. Members have followed closely the progress of the Cyberport Project through discussion at the Panel and raising questions at Council meetings. Between June 1999 and May 2006, the Panel has reviewed the implementation and progress of the Project at 16 meetings. The Panel also visited the Cyberport on 5 December 2001, 8 July 2003, 15 June 2004 and 17 July 2006 respectively.

11. Members have all along been very keen to ensure that the Cyberport Project can meet its public mission as to create a strategic cluster and critical mass of leading IT companies, and have raised such concern with the Administration on numerous occasions. In response to members' concern, the Administration has undertaken to strengthen measures for supporting small and medium enterprises so that they can take advantage of the world-class infrastructure in the Cyberport and become an essential part of the strategic cluster. As to members' concern on whether PCG had fulfilled its pledge as to attract quality tenants to the Cyberport by mobilizing its extensive network of partners and suppliers in the IT field, the Administration has assured members that many tenants have come to Hong Kong for development as a result of PCG's promotional activities. The Administration has also confirmed that PCG has a definite responsibility to promote the Cyberport and bring in some new applicants.

12. Members have also been very concerned about the tenancy position of the Cyberport Portion. As explained by the Administration at the previous Panel/Council meetings, the unsatisfactory tenancy position of office buildings was mainly due to the unfavourable macro economy, the sluggish property market and the global consolidation of IT/IS industries. Following the bursting of the Internet bubble, some of the companies concerned had ceased operation or decided to defer their plan to lease Cyberport offices. Nevertheless, the Administration undertook

to step up marketing efforts both overseas and in the Mainland with a view to attracting overseas/Mainland companies to set up businesses in the Cyberport, and to make follow-up contacts with those companies that had signed the Letters of Intent to lease the Cyberport. An international renowned property agent had been engaged to help market the Cyberport overseas and reach out to the target companies. Promotional activities including road shows would be held in big cities of Canada and the United States. Publicity would be made in IT related exhibitions overseas, in the Mainland and in Hong Kong. In addition, the Hong Kong Economic and Trade Offices would help promote the Cyberport to overseas investors seeking business opportunities in Hong Kong. The Administration would also continue to explore and provide value-added facilities and services to enhance the attractiveness of the Cyberport.

13. As for the *latest concerns raised by members* at the last Panel meeting held on 8 May 2006 to discuss the subject, they are as follows:

- (a) Noting from the last progress report on the Project for 2005-2006 that only 45% of the existing companies were new to Hong Kong, members are very concerned that many Cyberport tenants might have merely relocated from other districts, and hence the Project is actually a property development project competing with other developers in offering quality office premises. As such, members have urged the Administration and Cyberport management to market the Cyberport to overseas companies more proactively, instead of competing with local developers for the limited pool of local office tenants. Moreover, in reporting on the Cyberport Project in the future, the Administration/Cyberport management should also provide quantifiable information such as the extent of achievement for each of the *public missions*³ for members' evaluation on such as how far Cyberport has helped Hong Kong develop into a leading digital city in the region, and to what extent the small and medium IT enterprises have been nurtured and supported.
- (b) Members reiterate their concern about the *slow uptake of tenancy* at the Cyberport and have expressed doubt on the Administration's estimation of 60-70% increase in occupancy rate in the next 12 months. While a member considers that the Administration had made a wrong decision as to waive the take-up guarantee by PCG, some members are concerned that no target occupancy rate was set when the Cyberport Project was first implemented, as they consider

³ The public missions of the Cyberport Project are:

(a) To create a strategic cluster of quality IT and IT related companies critical to the development of Hong Kong into a leading digital city in the region; (b) To nurture and support the development of small and medium IT enterprises as an essential constituent of such a strategic cluster; (c) To provide a state-of-the-art infrastructure conducive to the creation of such a strategic cluster and its development; (d) To develop a regional centre of excellence in IT and digital media training for creating human capital through collaboration and partnership with the industry, academia, and research institutes and professional bodies; (e) To spearhead the development of the digital media industry through the provision of hardware, software and technical support in the Digital Media Centre; and (f) To promote the development of services and applications for wireless and mobile communications leveraging on Cyberport's excellent infrastructure and synergy.

that target occupancy rate is an important indicator to assess the success or otherwise of the Cyberport Project. As such, apart from urging the Administration /Cyberport management to come up with ways to boost the occupancy rate, members have also requested the Administration/Cyberport management to provide information on occupancy rates when reporting on the Project in the future.

- (c) Members are very concerned about the return on the Government's investment on the Project in order to ascertain whether public money has been put in good use. However, members note from the consolidated account of the Cyberport Project for the year ended 31 March 2005 that if the project income, which refers to the surplus proceeds received by the Government from the sale of the residential units and is actually a non-recurrent item, was excluded from the consolidated account, Cyberport was operating at a loss in 2004-2005. As such, members are concerned that the Cyberport may continue to *operate at a loss*, and have to rely on *cross-subsidization* by income from the sale of units in the ancillary Residential Portion to fund the shortfall. Members have therefore requested that annual briefings on the financial status of the Cyberport Project should be made to the Panel in future, and the Administration and the Cyberport management should list side by side relevant figures for the past few years in the consolidated account report for members' reference.
- (d) Having regard to certain market practices of offering favourable *rent-free periods* to tenants, a member has raised concern on whether all Cyberport tenant companies are given the same concessionary treatment in terms of rent-free periods, and if not, the criteria for deciding the treatment for individual cases, as he considers that excessively favourable leasing terms might be subject to abuse.

Latest position

14. The Panel will be updated on the progress of the Cyberport Project including the financial performance of the Project at the meeting to be held on 12 March 2007.

Relevant papers

15. A list of relevant papers is at the **Appendix**.

Appendix

List of relevant papers

Committee	Paper	LC Paper No.
Meeting of Public Works Subcommittee (PWSC) on 12 May 1999	✧ Administration's paper : "653CL Engineering infrastructure for Cyber Port Development at Telegraph Bay"	PWSC(1999-2000)13
	✧ Minutes of meeting	PWSC128/98-99
Meeting of Finance Committee (FC) on 21 May 1999	✧ Administration's paper	FCR(1999-2000)12
	✧ Minutes of meeting	FC199/98-99
Meeting of Establishment Subcommittee (ESC) on 9 June 1999	✧ Administration's paper : "Proposed creation of two supernumerary posts of one Administrative Officer Staff Grade B (D3) and one Chief Engineer (D1) for a period of three years and increase in the establishment ceiling from \$25,746,000 by \$3,166,560 to \$28,912,560 in 1999-2000 for the creation of five non-directorate posts in the Information Technology and Broadcasting Bureau of Government Secretariat to oversee the Cyberport development"	EC(1999-2000)15
	✧ Minutes of meeting	ESC69/98-99
Meeting of FC on 2 July 1999	✧ Administration's paper	FCR(1999-2000)27
	✧ Minutes of meeting	FC11/99-00
Meeting of Panel on Information Technology and Broadcasting (ITB) on 13 September 1999	✧ Administration's paper : "Progress of the Cyberport Project"	CB(1)1677/98-99(01)
	✧ Administration's paper : "Progress of the Cyberport Project"	CB(1)1879/98-99(01)
	✧ Minutes of meeting	CB(1)194/99-00

Committee	Paper	LC Paper No.
Meeting of Panel on Financial Affairs on 6 December 1999	<ul style="list-style-type: none"> ✧ Administration's paper ✧ Minutes of meeting 	<p>CB(1)510/99-00(04)</p> <p>CB(1)899/99-00</p>
Meeting of Panel on ITB on 14 February 2000	<ul style="list-style-type: none"> ✧ Administration's paper : "Progress of the Cyberport Project" ✧ Minutes of meeting 	<p>CB(1)953/99-00(03)</p> <p>CB(1)1120/99-00</p>
Meeting of Panel on ITB on 8 May 2000	<ul style="list-style-type: none"> ✧ Administration's paper : "Progress of the Cyberport Project" ✧ Administration's paper : "Construction of the Northern Access Road to Cyberport development at Telegraph Bay" ✧ Minutes of meeting 	<p>CB(1)1504/99-00(02)</p> <p>CB(1)1504/99-00(03)</p> <p>CB(1)1720/99-00</p>
Meeting of PWSC on 17 May 2000	<ul style="list-style-type: none"> ✧ Administration's paper : "653CL Engineering infrastructure for Cyber Port Development at Telegraph Bay" ✧ Minutes of meeting 	<p>PWSC(2000-01)19</p> <p>PWSC153/99-00</p>
Meeting of FC on 9 June 2000	<ul style="list-style-type: none"> ✧ Administration's paper ✧ Minutes of meeting 	<p>FCR(2000-01)22</p> <p>FC159/99-00</p>
Meeting of Panel on ITB on 12 June 2000	<ul style="list-style-type: none"> ✧ Legislative Council Brief : "Cyberport Project Agreement" ✧ Administration's paper : "Supplementary information on objections to the Cyberport project" ✧ Minutes of meeting 	<p>ITBB/CP 303/2 (00)</p> <p>CB(1)1796/99-00(03)</p> <p>CB(1)1977/99-00</p>
Meeting of PWSC on 22 November 2000	<ul style="list-style-type: none"> ✧ Administration's paper : "241WF Extension of water supply to Pokfulam areas" ✧ Minutes of meeting 	<p>PWSC(2000-01)67</p> <p>PWSC31/00-01</p>

Committee	Paper	LC Paper No.
Meeting of the Legislative Council on 6 December 2000	✧ Question on "Financial Arrangements for Cyberport Project"	Hansard
Meeting of Panel on ITB on 11 December 2000	<ul style="list-style-type: none"> ✧ Administration's paper : "Progress of the Cyberport Project" ✧ Minutes of meeting 	<p>CB(1)281/00-01(01)</p> <p>CB(1)410/00-01</p>
Meeting of FC on 15 December 2000	<ul style="list-style-type: none"> ✧ Administration's paper ✧ Minutes of meeting 	<p>FCR(2000-01)53</p> <p>FC42/00-01</p>
Meeting of Panel on ITB on 9 July 2001	<ul style="list-style-type: none"> ✧ Administration's paper : "Progress of the Cyberport Project" ✧ Summary of background information on Cyberport ✧ Minutes of meeting 	<p>CB(1)1710/00-01(03)</p> <p>CB(1)1710/00-01(02)</p> <p>CB(1)1925/00-01</p>
Meeting of Panel on ITB on 8 February 2002	<ul style="list-style-type: none"> ✧ Administration's paper : "Progress of the Cyberport Project" ✧ Background brief on Cyberport ✧ Administration's follow-up paper : "Opening of Public Transport Terminus at Cyberport" ✧ Minutes of meeting 	<p>CB(1)994/01-02(04)</p> <p>CB(1)994/01-02(03)</p> <p>CB(1)1295/01-02</p> <p>CB(1)1225/01-02</p>
Meeting of Panel on ITB on 8 April 2002	<ul style="list-style-type: none"> ✧ Administration's paper : "Cyberport – Tenancy Position for Phase I Building" ✧ Administration's paper : "Institutional Arrangements for Future Management of the Cyberport Project" ✧ Information note on Members' concerns about tenancy matters at the Cyberport ✧ Background note on the staffing 	<p>CB(1)1432/01-02</p> <p>CB(1)1416/01-02(01)</p> <p>CB(1)1430/01-02(01)</p> <p>CB(1)1421/01-02(03)</p>

Committee	Paper	LC Paper No.
	<p>proposal for Cyberport-related posts</p> <p>✧ Minutes of meeting</p>	CB(1)1642/01-02
Meeting of ESC on 15 May 2002	<p>✧ Administration's paper : "Proposed retention of two supernumerary posts of one Administrative Officer Staff Grade B (D3) and one Chief Engineer (D1) in the Information Technology and Broadcasting Bureau of Government Secretariat for a period of 18 months to enable the secondment of two suitable officers from the Government to a management team set up under a private company owned by Financial Secretary Incorporated to spearhead the Cyberport development"</p> <p>✧ Minutes of meeting</p>	<p>EC(2002-03)1</p> <p>ESC33/01-02</p>
Meeting of FC on 24 May 2002	<p>✧ Administration's paper</p> <p>✧ Minutes of meeting</p>	<p>FCR(2002-03)19</p> <p>FC16/02-03</p>
Meeting of Panel on ITB on 8 July 2002	<p>✧ Administration's paper : "Progress of the Cyberport Project"</p> <p>✧ Background brief on Cyberport</p> <p>✧ Minutes of meeting</p>	<p>CB(1)2172/01-02(02)</p> <p>CB(1)2172/01-02(01)</p> <p>CB(1)2429/01-02</p>
Meeting of the Legislative Council on 30 October 2002	<p>✧ Question on "Concessionary Rent-free Periods Offered to Cyberport Tenants"</p> <p>✧ Question on "Tenancy Position of Cyberport Offices"</p>	<p>Hansard</p> <p>Hansard</p>
Meeting of Panel on ITB on 13 January 2003	✧ Minutes of meeting	CB(1)846/02-03

Committee	Paper	LC Paper No.
Meeting of Panel on ITB on 28 January 2003	<ul style="list-style-type: none"> ✧ Administration's paper : "Progress Report on the Cyberport Project (January 2003)" ✧ Background brief on Cyberport ✧ Minutes of meeting 	<p>CB(1)765/02-03(03)</p> <p>CB(1)626/02-03</p> <p>CB(1)985/02-03</p>
Meeting of Panel on ITB on 21 July 2003	<ul style="list-style-type: none"> ✧ Administration's paper : "Progress Report on the Cyberport Project (July 2003)" ✧ Background brief on Cyberport ✧ Minutes of meeting 	<p>CB(1)2214/02-03(01)</p> <p>CB(1)2214/02-03(02)</p> <p>CB(1)2385/02-03</p>
Meeting of Panel on ITB on 12 January 2004	<ul style="list-style-type: none"> ✧ Administration's paper : "Progress Report on the Cyberport Project (January 2004)" ✧ Background brief on Cyberport ✧ Administration's follow-up paper : "Progress Report on the Cyberport Project (June 2004)" ✧ Minutes of meeting 	<p>CB(1)710/03-04(03)</p> <p>CB(1)581/03-04</p> <p>CB(1)2232/03-04(01)</p> <p>CB(1)1044/03-04</p>
Meeting of Panel on ITB on 10 January 2005	<ul style="list-style-type: none"> ✧ Administration's paper : "Report on the Cyberport Project (December 2004)" ✧ Background brief on Cyberport ✧ Minutes of meeting 	<p>CB(1)588/04-05(01)</p> <p>CB(1)623/04-05</p> <p>CB(1)816/04-05</p>

Committee	Paper	LC Paper No.
Meeting of Panel on ITB on 2 February 2005	<ul style="list-style-type: none"> ✧ Brief on the Government's consultation with the Legislative Council on the Cyberport project" ✧ Requests for further information raised at the meeting ✧ Administration's response to Members' requests raised at the meeting ✧ Minutes of meeting 	<p>CB(1)817/04-05</p> <p>CB(1)864/04-05(01) Revised</p> <p>CB(1)943/04-05(01)</p> <p>CB(1)1053/04-05</p>
Meeting of Panel on ITB on 8 May 2006	<ul style="list-style-type: none"> ✧ Administration's paper : "Report on the Cyberport Project (April 2006)" ✧ Background brief on Cyberport ✧ Administration's follow-up paper : "Report on the Cyberport Project (2005)" ✧ Minutes of meeting 	<p>CB(1)1380/05-06(04)</p> <p>CB(1)1381/05-06</p> <p>CB(1)1931/05-06(01)</p> <p>CB(1)1701/05-06</p>