

**立法會**  
**Legislative Council**

LC Paper No. CB(1)781/09-10  
(These minutes have been seen  
by the Administration)

Ref : CB1/PL/CI/1

**Panel on Commerce and Industry**

**Minutes of meeting**  
**held on Tuesday, 17 November 2009, at 2:30 pm**  
**in Conference Room A of the Legislative Council Building**

- Members present** : Hon Vincent FANG Kang, SBS, JP (Chairman)  
Dr Hon LAM Tai-fai, BBS, JP (Deputy Chairman)  
Hon Emily LAU Wai-hing, JP  
Hon Timothy FOK Tsun-ting, GBS, JP  
Hon Tommy CHEUNG Yu-yan, SBS, JP  
Hon Albert CHAN Wai-yip  
Hon Jeffrey LAM Kin-fung, SBS, JP  
Hon Andrew LEUNG Kwan-yuen, SBS, JP  
Hon WONG Ting-kwong, BBS, JP  
Hon Ronny TONG Ka-wah, SC  
Hon CHIM Pui-chung  
Hon Starry LEE Wai-king  
Hon Tanya CHAN  
Hon Mrs Regina IP LAU Suk-ye, GBS, JP  
Dr Hon Samson TAM Wai-ho, JP
- Member absent** : Hon Fred LI Wah-ming, SBS, JP
- Public officers attending** : Agenda Item IV  
Mr Gregory SO, JP  
Under Secretary for Commerce and Economic Development  
Mr James CHAN  
Principal Assistant Secretary for Commerce and Economic Development (Commerce and Industry)  
Miss Vivian LAU  
Deputy Director-General of Trade and Industry (Commercial Relations, Controls and Support)

Miss Belinda KWAN  
Assistant Director-General of Trade and Industry  
(Industries Support)

Agenda Item V

Mr Gregory SO, JP  
Under Secretary for Commerce and Economic  
Development

Mr Duncan PESCOD, JP  
Permanent Secretary for Commerce and Economic  
Development (Communications and Technology)

Miss Janet WONG, JP  
Commissioner for Innovation and Technology

Agenda Item VI

Miss Yvonne CHOI, JP  
Permanent Secretary for Commerce and Economic  
Development (Commerce, Industry and Tourism)

Mr Christopher WONG, JP  
Deputy Secretary for Commerce and Economic  
Development (Commerce and Industry)<sup>2</sup>

Ms Bonnie YAU  
Principal Assistant Secretary for Commerce and  
Economic Development (Commerce and Industry)

Ms Ada LEUNG  
Assistant Director of Intellectual Property

**Attendance by  
invitation**

: Agenda Item V

Hong Kong Council for Testing and Certification

Mr John HUNG  
Secretary-General (Testing and Certification)

**Clerk in attendance**

: Ms YUE Tin-po  
Chief Council Secretary (1)<sup>3</sup>

**Staff in attendance** : Mr Joey LO  
Council Secretary (1)3

Ms May LEUNG  
Legislative Assistant (1)6

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Action

**I. Confirmation of minutes of meeting**

(LC Paper No. CB(1)252/09-10 -- Minutes of meeting held on  
15 October 2009)

The minutes of the meeting held on 15 October 2009 were confirmed.

**II. Information paper issued since last meeting**

(LC Paper No. CB(1)347/09-10(01) -- Information paper on the latest  
development on Hong  
Kong/Guangdong co-operation)

2. Members noted that the above paper had been issued for the Panel's  
information.

**III. Date of next meeting and items for discussion**

(LC Paper No. CB(1)341/09-10(01) -- List of outstanding items for  
discussion

LC Paper No. CB(1)341/09-10(02) -- List of follow-up actions)

3. Members noted that the next regular Panel meeting would be held on  
15 December 2009 at 2:30 pm in Conference Room A to discuss the following  
items:

- (a) Research and Development Cash Rebate Scheme; and
- (b) Progress report on Hong Kong Special Administrative Region's  
participation in the World Exposition 2010 Shanghai China.

**IV. Progress update on the support measures for small and medium  
enterprises arising from the global financial turmoil**

(LC Paper No. CB(1)341/09-10(03) -- Administration's paper on progress  
update on the support measures for  
small and medium enterprises  
arising from the global financial  
turmoil

LC Paper No. CB(1)341/09-10(04) -- Administration's paper on Special Loan Guarantee Scheme

LC Paper No. CB(1)341/09-10(05) -- Paper on the progress of the funding schemes for small and medium enterprises prepared by the Legislative Council Secretariat (updated background brief)

Presentation by the Administration

4. At the invitation of the Chairman, Under Secretary for Commerce and Economic Development (USCED) briefed members on the latest progress of the support measures for small and medium enterprises (SMEs) arising from the global financial turmoil, as set out in the Administration's papers (LC Paper No. CB(1)341/09-10(03) and (04)).

Discussion

*Default rate*

5. In response to Mr Jeffrey LAM's enquiry about the default rate by industries under the Special Loan Guarantee Scheme (SpGS), USCED advised that as some borrowing enterprises might not need to repay loan principal within the first six months after the loan was drawn down, the overall default rate still remained at a low level (27 cases). No individual industries stood out as the major defaulting industries. As the number of default claims was likely to increase at a later stage, it would be premature and unfair to name, at this stage, any individual industries as the major defaulting industries.

*Reconsideration of rejected applications*

6. Dr LAM Tai-fai noted that over 5 000 loan applications under the SME Loan Guarantee Scheme (SGS) and the SpGS had been rejected by the participating lending institutions (PLIs) mainly due to the weak financial status of the applicants. He also noted that 49 companies had been rejected by the Trade and Industry Department (TID) as they had exceeded the loan ceiling. He enquired whether the Administration would ask the PLIs to reconsider the applications concerned.

7. In response, Assistant Director-General of Trade and Industry (Industries Support) (ADGTI) advised that many previously rejected applications under 70% guarantee had been reviewed and subsequently approved under 80% guarantee upon implementation of the enhanced SpGS in June 2009. As regards the applications rejected by the TID, ADGTI advised that under the SpGS, each applying company was subject to a loan ceiling of \$12 million.

*Suspension of repayment*

8. Mr Jeffrey LAM expressed concern that SMEs were still undergoing a critical period of recovery and could face another credit crisis in the near future. To help the SMEs tide over the difficult period, he suggested that for those SMEs facing genuine financial difficulty, they should be allowed to suspend repayment for a further six months following the six-month grace period during which borrowers might only repay the loan interests.

9. In response, USCED advised that while the PLIs had been encouraged to be more flexible and accommodating to the liquidity needs of the SMEs, it was equally important for the PLIs to maintain a proper balance between exercising flexibility and ensuring prudent credit risk assessment. The Administration was obliged to ensure the prudent use of taxpayers' money under the loan schemes. As the SGS and SpGS had been operating smoothly, the Administration saw no need to make adjustments to the risk assessment criteria and related procedures at this juncture.

*Extension of the Special Loan Guarantee Scheme*

10. Noting that considerable uncertainty still loomed over the future economic situation whilst some 40% of the total loan guarantee commitment of \$100 billion had already been used up, Mr Andrew LEUNG enquired about the measures to be taken if the current commitment was found to be insufficient to cover the extension period. He also enquired whether the Administration would devise any long-term measures, such as the provision of privately-run credit insurance facilities, to ease the credit problem faced by the SMEs in the long run.

11. In response, USCED advised that unless the actual default rate deviated significantly from the assumed rate, the default claims arising from the six-month extension of the SpGS application period should be within the estimated maximum expenditure exposure. The Administration would consider seeking additional funding in the event that the commitment was insufficient to cover the extension period. As regards long-term measures to facilitate SME financing, the Hong Kong Export Credit Insurance Corporation currently provided a wide range of insurance facilities to Hong Kong exporters trading with overseas buyers on credit terms. With the backup of such insurance facilities, banks would be more willing to offer loans to the SMEs.

12. USCED added that the number of applications under the SpGS had declined recently, probably due to the recent improvement of the economic situation. It appeared that banks were offering more competitive and favorable loan conditions to applying enterprises. He emphasized that the SpGS was intended from the outset to be a time-limited initiative introduced to tackle the credit crunch problem arising from the global financial crisis. If the economic situation continued to improve, it would be an opportune time to consider letting the credit market resume its normal operation. The Administration would closely monitor the situation and review the SpGS prior to the expiry of the extension

period by end of June 2010.

13. Mr WONG Ting-kwong welcomed the six-month extension of the SpGS. He opined that it would be of great help to the SMEs in financing, especially when the year end was approaching. Nevertheless, he was concerned that SMEs would face financial problems upon expiry of the six-month extension period. In this connection, he enquired if the Administration would step up assistance to the SMEs in opening up new markets, such as by helping the SMEs participate in international exhibitions and trade fairs in collaboration with the Hong Kong Trade Development Council (HKTDC).

14. USCED noted Mr WONG's concern and pledged that the Administration would take SMEs' needs into account and would not terminate SpGS abruptly if there was still a proven need for the Scheme. As regards longer term measures, he advised that apart from the SpGS, the Administration would continue to render support to SMEs through the ongoing SGS. Moreover, the Administration would continue to help the SMEs expand their businesses by participating in export promotion activities through the SME Export Marketing Fund and the SME Development Fund. Meanwhile, the Administration would also help the SMEs open up new markets in collaboration with the HKTDC.

15. Dr LAM Tai-fai opined that SMEs had suffered badly from the financial turmoil and needed more time to recuperate. Export trade remained weak amidst an uncertain economic outlook although Government officials had repeatedly stressed that the worst times were over. He expressed reservation about the possibility of Hong Kong achieving a full recovery within the first half of the coming year. As such, he called on the Administration to extend the SpGS for a full year so that the SMEs could have better planning for the year ahead.

16. In response, USCED agreed that although there were signs of economic recovery, a full-fledged recovery had yet to come. He emphasized that the Administration would keep a close watch on the situation and review the SpGS before the expiry of the extension period, and make suitable adjustments if necessary.

*Official credit institute*

17. Mr CHIM Pui-chung opined that the over-cautious economic forecast in the past few months by certain financial officials had hindered the PLIs' willingness to offer loans to SMEs. He suggested that the Administration should set up an official credit institute to provide credit facilities to SMEs whose applications had been rejected by the PLIs. He also enquired if the Administration had compiled any statistics on the number of drawn-down loans which had been repackaged or restructured by the PLIs to take advantage of the raising of the loan guarantee ratio.

18. In response, USCED advised that the Administration had no plans at present to set up an official credit institute. He noted the easing of the credit crunch faced by SMEs in recent months as reflected in the declining number of

applications under the two loan schemes and intensified competition for SpGS customers amongst the PLIs. He added that there were provisions under the SpGS prohibiting the use of the loan for paying, repaying, restructuring or repackaging any loans, credit facilities or payment obligations.

*Securitization of the SME loans*

Admin

19. Noting that the Administration had no plans to set up an official credit institute, Mrs Regina IP suggested that as the Hong Kong Mortgage Corporation Limited was set up to enhance the stability of the banking sector through offering a reliable source of liquidity, it should take up the loan applications rejected by the PLIs and securitize the loans of SMEs, so as to facilitate the development of debt securities in Hong Kong. Upon the Panel's request, the Administration would refer the member's suggestion to the appropriate authority for consideration.

*Summing up*

20. In summing up the discussion, the Chairman reiterated members' support for the Administration's support measures for SMEs arising from the global financial crisis. As the overall credit situation had improved, members agreed that there would be no need for the Administration to provide a progress update at every Panel meeting. Nevertheless, the Administration should report to the Panel again under special circumstances, such as the worsening of the credit situation, or when the total financial commitment had become close to being fully utilized.

**V. Promoting the development of the testing and certification industry in Hong Kong**

(LC Paper No. CB(1)341/09-10(06) -- Administration's paper on establishment of the Hong Kong Council for Testing and Certification and its work plan

LC Paper No. CB(1)341/09-10(07) -- Paper on promoting the development of the testing and certification industry in Hong Kong prepared by the Legislative Council Secretariat (background brief)

Presentation by the Administration

21. At the invitation of the Chairman, USCED briefed members on the establishment of the Hong Kong Council for Testing and Certification (HKCTC) and its work plan, as set out in the Administration's paper (LC Paper No. CB(1)341/09-10(06)).

*Tapping the Mainland domestic market*

22. Mrs Regina IP opined that out of the six industries to be developed by the Administration, testing and certification industry was the most worthy of support as it could create a large number of employment opportunities at different levels. She enquired about the competitive advantages which Hong Kong enjoyed in terms of Chinese medicine and food testing and certification. In order to help Hong Kong enterprises tap the Mainland market, she called on the Administration to seek the agreement of the Mainland authorities on the recognition of testing reports issued by Hong Kong's accredited laboratories. She also enquired whether HKCTC would become a certification authority for electronic authentication.

23. In response, Commissioner for Innovation and Technology (CIT) advised that the strategic location of Hong Kong as a gateway to the huge and expanding Mainland market had put it in a vantage position for provision of testing and certification services including food and Chinese medicine testing. Hong Kong was well positioned to act as an independent third party to provide quality certification and product testing services for Mainland enterprises. It possessed both well-developed hardware (laboratories) and software (e.g. human capital, a robust accreditation system etc.) to meet the needs of various stakeholders. The local testing and certification industry also had a high international reputation and its services were accepted globally. In formulating its three-year development plan, HKCTC would look into support measures for selected trades such as Chinese medicine and food testing where the use of testing and certification services might have greater potentials. HKCTC would consult practitioners from the industry and stakeholders. Meanwhile, the Administration would also explore with the Mainland authorities on the possibility of recognizing testing reports issued by Hong Kong's accredited laboratories. Permanent Secretary for Commerce and Economic Development (Communications and Technology) (PSCT) supplemented that as a separate exercise, the Administration was undertaking a review of the whole system of issuance of electronic certificates by the Hong Kong Post to consider whether the system should continue or how it could be improved.

24. Mr WONG Ting-kwong noted that under the unified compulsory product certification system in the Mainland (i.e. China Compulsory Certification or 3C), products listed in the compulsory product certification catalogue must be certified by designated certification bodies in the Mainland before they could be put on the market. This would add to the production cost of Hong Kong enterprises tapping the Mainland domestic market. In order to help lower the cost for local enterprises, he called on the Administration to discuss with the Guangdong authorities the possibility of the early and pilot implementation of the acceptance of Hong Kong's testing and certification reports. He further suggested that the Administration should also strive for the provision of the 3C service by accredited laboratories in Hong Kong. Quoting Hong Kong's success in the application of molecular technology to authenticate Chinese medicinal materials, he enquired about further measures being taken by the Administration to support the development of the local testing and certification industry.

25. CIT advised that the Administration would explore with the relevant Mainland authorities the possibility of early and pilot implementation of accepting testing reports from Hong Kong's accredited laboratories for selected products in the context of the Mainland and Hong Kong Closer Economic Partnership Arrangement (CEPA). HKCTC was also looking at ways, including funding assistance under the Innovation and Technology Fund, to enhance the various factors of production (namely technology, manpower, capital and land) which were vital for the development of the testing and certification industry.

*Grooming of talents*

26. Miss Tanya CHAN enquired about the measures taken by the Administration to groom talents in the testing and certification industry. She suggested that environmental certification be included as a selected trade in the development plan of HKCTC. She also urged the Administration to report to the Panel again when the three-year development plan was formulated.

27. In response, CIT advised that the Administration attached great importance to the grooming of talents in the testing and certification industry. The Administration would consult industry practitioners and chambers of commerce on the potential business opportunities to be identified. Universities and the Vocational Training Council (VTC) would also be consulted on the manpower supply angle. She said that HKCTC adopted an open attitude towards the selection of trades to be developed. In fact, practitioners from various trades, including jewelry testing and software testing, had approached the Administration on the possibility of inclusion of their trades into the development plan of HKCTC. To facilitate public consultation, a website had been set up and a consultation forum would be held to collect views from the industry, major stakeholders and the general public on the opportunities and challenges faced by the industry and the development strategy for strengthening the industry. The Administration would update the Panel on the progress of the work of HKCTC as necessary.

28. Quoting a newspaper report, Ms Starry LEE advised that the Chief Executive of the Hong Kong Standards and Testing Centre had estimated that about 5 000 new recruits were required for the testing and certification industry over the next two years. However, only 250 graduates each year would be provided by the four Diploma courses offered by the Hong Kong Institute of Vocational Education (IVE) under VTC. She enquired about the Administration's projection of the manpower situation and the measures being taken by the Administration to bridge the manpower gap. In this connection, the Chairman opined that apart from the grooming of talents, consideration should be given to attracting talents from overseas to join Hong Kong's testing and certification industry so as to bridge the manpower gap.

29. In response, CIT advised that HKCTC had yet to come up with an estimate on the manpower requirement of the industry. She added that apart from the graduates from IVE, university graduates in subjects such as Chemistry also constituted a potential pool of recruits for the industry. In conjunction with the

Census and Statistics Department, HKCTC would collate relevant statistics in order to gain a better understanding of the manpower required for the industry and would report to the Panel in this respect.

30. The Chairman said that members of the Liberal Party fully supported the Administration's effort in developing the testing and certification industry. Noting that the new nutrition labelling scheme would come into effect on 1 July 2010 and that very complicated procedures were involved in food and Chinese medicine testing, he called on the Administration to step up effort in promoting such testing as a matter of urgency. He also urged the Administration to ensure that the standards adopted in Hong Kong should be in line with internationally recognized ones to avoid controversies.

31. In response, CIT agreed that there would be a strong demand for food testing service upon the implementation of the nutrition labelling scheme. The Administration would step up efforts in this respect to cope with the surge in demand for the service. Secretary-General (Testing and Certification), HKCTC added that to facilitate smooth implementation of the nutrition labelling scheme, the Government Laboratory and the Food and Environmental Hygiene Department had been working closely with the food industry and the food testing trade to provide them with technological advice.

## **VI. Copyright protection in the digital environment**

(LC Paper No. CB(1)341/09-10(08) -- Administration's paper on proposals for strengthening copyright protection in the digital environment

LC Paper No. CB(1)341/09-10(09) -- Paper on copyright protection in the digital environment prepared by the Legislative Council Secretariat (updated background brief)

### Presentation by the Administration

32. At the invitation of the Chairman, Permanent Secretary for Commerce and Economic Development (Commerce, Industry and Tourism) (PSCIT) briefed members on the Administration's refined proposals to strengthen copyright protection in the digital environment, taking into account the views that had been received regarding its preliminary proposals, and the latest developments in overseas jurisdictions. Details of the refined proposals were set out in the Administration's paper (LC Paper No. CB(1)341/09-10(08)).

Discussion

*Copyright infringement activities committed outside Hong Kong*

33. Mr WONG Ting-kwong enquired about the protection being provided to local copyright owners to deal with copyright infringement activities committed outside Hong Kong.

34. In response, PSCIT advised that it was important to ascertain whether such activities were committed in Hong Kong or overseas. Generally speaking, it would be easier to conduct investigation and enforcement action if the infringing activities were committed in Hong Kong. Principal Assistant Secretary for Commerce and Economic Development (Commerce and Industry) (PASCI) supplemented that even if the infringing materials were put on an overseas website or server, the Customs and Excise Department (C&ED) could initiate enforcement actions provided that the infringement act was confirmed to have taken place in Hong Kong. On the other hand, if the material infringement act was committed outside Hong Kong, then it would fall within the jurisdiction of the overseas authorities to take enforcement actions, and copyright owners may need to turn to them for assistance.

*Consistency of the proposals with international practice*

35. Dr Samson TAM called on the Administration to solicit the views of the users before finalizing its legislative proposals. He enquired about the number of criminal prosecutions brought against unauthorized distribution of infringing copies of copyright work on the Internet under the Copyright Ordinance (Cap. 528). Noting that one of the Administration's proposals was to "recognize copyright owners' right to communicate their works through *any mode of electronic transmission*, with criminal sanctions against infringement", he opined that without specifying/distinguishing the kinds of technology used in the infringement activity, the proposal might be too general that would likely increase the risk of inadvertent breaches by members of the public. He enquired whether the proposal was in line with the international practice and whether the Administration had liaised with the Mainland and overseas authorities on developing possible cooperative mechanism in combating online copyright piracy.

36. In response, PSCIT advised that the Administration recognized the legitimate or fair use of copyright works by users, and accordingly, had been soliciting views extensively from various stakeholders, including the users. The proposal for recognizing copyright owners' right to communicate their works through any mode of electronic transmission was in line with the relevant laws in the United Kingdom and Australia etc. She added that the Administration maintained contacts with overseas and Mainland authorities, including the General Administration of Customs as well as the National Copyright Administration of the People's Republic of China, on combating online copyright infringement activities. As regards enforcement actions, Deputy Secretary for Commerce and Economic Development (Commerce and Industry)<sup>2</sup> mentioned that one notable example of successful

prosecution against unauthorized online distribution of infringing copies of copyright works was the *Chan Nai Ming* case in which the defendant used the BitTorrent peer-to-peer file-sharing technology to share movies with other Internet users. At the member's request, the Administration undertook to provide statistics on the number of prosecutions against unauthorized online distribution of infringing copies of copyright work after the meeting.

*Media shifting exception*

37. Noting the Administration's proposal to introduce a media shifting exception limited to sound recordings, Mr WONG Ting-kwong enquired about the reason for not extending the exception to other types of works such as films or publications. In this connection, Mr Andrew LEUNG opined that the exception should be extended to other types of works provided that it was limited to personal use only.

38. In response, PSCIT explained that in formulating the proposals, the Administration had consulted various stakeholders, noting that similar exception on media shifting for sound recordings had already been recognized in two overseas countries, namely Australia and New Zealand. While some did not oppose to the introduction of a media shifting exception limited to sound recordings, there were strong objections from copyright owners to extending the exception to films.

39. PASCI added that at present, of the countries covered by the Administration's survey, Australia was the only one that had provided a limited media shifting exception for films by allowing the owner of a non-infringing copy of a videotape embodying a cinematograph film in analog form to make a copy of the film in electronic/digital form for his private and domestic use. Following a review in 2008, the Australian Government found no demonstrated need to extend the exception to cover digital-to-digital copying for films. On the other hand, there might not exist a very strong demand for a media shifting exception for films in Hong Kong for the time being. That said, the Administration would monitor overseas developments and make suitable adjustments as and when necessary.

40. In response to Mr Jeffrey LAM's enquiry about consistency with overseas practice, PASCI explained that the refined proposals were drawn up having regard to the respective legal positions in Australia and New Zealand. She added that in many European countries, a levy was imposed on the purchase of blank recording media such as recordable compact discs as a means to compensate the copyright owners on the potential use of these media for private copying of copyright works. In the United States, certain kinds of media shifting activities might fall within the "fair use" copyright exception in the Copyright Law. In response to Mr LAM's further enquiry, PSCIT advised that members of the public who were interested to know about the subject might wish to approach the Intellectual Property Department for further information.

*Online plagiarism*

41. Quoting a newspaper report on rampant media report plagiarism, Mr WONG Ting-kwong enquired about the measures to be taken by the Administration to combat online plagiarism.

42. In response, PSCIT advised that the Administration was committed to maintaining the efficacy of the copyright protection regime in the cyberspace. While the Administration would not comment on individual cases, she assured members that C&ED would look into complaints about alleged media report plagiarism and would take follow-up action if considered appropriate.

*Online sale of counterfeit goods*

43. Ms Starry LEE advised that in a recent press briefing, she told the press that the sale of suspected pirated or counterfeit products was rampant on major internet auction sites in Hong Kong such as the Yahoo internet auction site. This phenomenon was partly attributable to the very loose requirement for registration as an auctioneer in such sites. A telephone number was all it took to register as an online auctioneer. To rectify the problem, she suggested that an auctioneer should be required to use his/her real name in the registration of his/her online account and such requirement should be specified in the Code of Practice in future.

44. In response, Assistant Director of Intellectual Property advised that the Code of Practice in question dealt with online copyright piracy (as opposed to selling of counterfeit products, which was a trademark infringement issue), including how online service providers (OSPs) could assist in combating online copyright infringements on their service platforms. PASCI added that C&ED would step up enforcement actions against online sale of counterfeit products under the Trade Description Ordinance (Cap. 362). The "E-auctioning with Integrity" Scheme had also been implemented in collaboration with major local auction sites. PSCIT supplemented that the Commerce and Economic Development Bureau would reflect members' concern about the online sale of counterfeit products to C&ED. She said that C&ED would continue to take sustained actions in suppressing infringing activities on the Internet. She encouraged members of the public who came across any suspected online piracy or counterfeit activities to report to C&ED.

*Constitution of criminal offence*

45. The Chairman sought clarification on what would constitute a criminal offence under the proposal. He also enquired whether the OSPs would be legally obliged to disclose the personal particulars of the suspect upon request by the law enforcement agencies.

46. In response, PSCIT explained that the Administration's proposal included bringing in criminal sanctions against those who initiated unauthorized communications of copyright works in the course of business conducted for profit;

or where the communication was made to such an extent as to affect prejudicially the copyright owner. The law enforcement agencies could request the OSPs concerned to disclose the personal particulars of the suspect in the course of criminal investigation. The Administration would also draw up a Code of Practice for OSPs in combating online infringements, in collaboration with copyright owners, internet users and OSPs through a Tripartite Forum.

*Support from stakeholders*

47. In response to the Chairman's enquiry about stakeholders' support for the proposals, PSCIT recapped that following the consultation document released in 2006, the Administration released in 2008 a package of preliminary proposals for further public engagement. The vast majority of stakeholders had indicated support for the principle of enhancing copyright protection in the digital environment. Having regard to the views received during public engagement and in light of the experience and practices in overseas jurisdictions, the Administration had fine-tuned some of the preliminary proposals and put forward the refined package in its present state.

48. The Chairman welcomed the Administration's proposal for enhancing copyright protection in the digital environment, but warned against the stifling of creativity and innovation by over-protection. He opined that apart from regulation through legislative means, public education and promotion was equally important for the prevention of internet piracy.

*Summing up*

49. In summing up the discussion, the Chairman said that the Panel supported in principle the legislative proposals. He urged the Administration to take note of the views and concerns expressed by members at the meeting and the stakeholders at large, and endeavour to strike a balance between the interest of the copyright owners and the users. Members agreed to receive views from deputations and members of the public on the issue at a future meeting.

*(Post-meeting note: At the Panel meeting on 15 December 2009, members agreed that the Panel should receive views from deputations and members of the public on the subject at the regular meeting to be held on 19 January 2010.)*

**VII. Any other business**

50. There being no other business, the meeting ended at 4:40 pm.