

立法會
Legislative Council

LC Paper No. CB(1)1485/12-13
(These minutes have been seen
by the Administration)

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Panel on Commerce and Industry

Minutes of meeting
held on Tuesday, 21 May 2013, at 10:45 am
in Conference Room 2A of the Legislative Council Complex

- Members present** : Hon Vincent FANG Kang, SBS, JP (Chairman)
Dr Hon CHIANG Lai-wan, JP (Deputy Chairman)
Hon Emily LAU Wai-hing, JP
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon Andrew LEUNG Kwan-yuen, GBS, JP
Hon WONG Ting-kwong, SBS, JP
Dr Hon LAM Tai-fai, SBS, JP
Hon Steven HO Chun-yin
Hon Charles Peter MOK
Hon Dennis KWOK
Hon Christopher CHEUNG Wah-fung, JP
Hon Martin LIAO Cheung-kong, JP
- Members absent** : Hon MA Fung-kwok, SBS, JP
Hon SIN Chung-kai, SBS, JP
Ir Dr Hon LO Wai-kwok, BBS, MH, JP
Hon CHUNG Kwok-pan

**Public officers
attending**

: Agenda item IV

Mr Andrew H Y WONG, JP
Permanent Secretary for Commerce and Economic
Development (Commerce, Industry and Tourism)

Mrs Alice CHEUNG, JP
Deputy Secretary for Commerce and Economic
Development (Commerce and Industry) 3

Mr Brian LO, JP
Deputy Director-General of Trade and Industry
(Commercial Relations, Controls and Support)

Agenda item V

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

Mr David WONG
Deputy Secretary for Commerce and Economic
Development (Commerce and Industry)2

Miss Patricia SO
Principal Assistant Secretary for Commerce and
Economic Development (Commerce and Industry)3

Mr Peter K F CHEUNG, JP
Director of Intellectual Property

**Attendance by
invitation**

: Agenda Item IV

Hong Kong Productivity Council

Mr Tony LAM
Director, Corporate Services

Clerk in attendance : Ms Annette LAM
Chief Council Secretary (1)3

Staff in attendance : Ms Connie HO
Senior Council Secretary (1)3

Miss Rita YUNG
Council Secretary (1)3

Ms May LEUNG
Legislative Assistant (1)3

Action

I. Confirmation of minutes of meeting

(LC Paper No. CB(1)1023/12-13 -- Minutes of meeting held on
19 March 2013)

The minutes of the meeting held on 19 March 2013 were confirmed.

II. Information paper issued since last meeting

(LC Paper No. CB(1)884/12-13(01) -- Information on the financial
position of the Applied
Research Fund for the period
of 1 September to 30
November 2012)

2. Members noted that the above paper had been issued since last
meeting held on 16 April 2013.

III. Date of next meeting and items for discussion

(LC Paper No. CB(1)1026/12-13(01) -- List of outstanding items
for discussion

LC Paper No. CB(1)1026/12-13(02) -- List of follow-up actions

LC Paper No. CB(1)1026/12-13(03) -- Hon CHUNG Kwok-pan's
(Chinese version only) letter dated 13 May 2013

LC Paper No. CB(1)1064/12-13(01) -- Administration's response
to Hon CHUNG
Kwok-pan's letter

LC Paper No. CB(1)1064/12-13(02) -- Hon Emily LAU Wai-hing's
(Chinese version only) letter dated 16 May 2013)

3. Members noted that the next regular Panel meeting would be held on 18 June 2013 at 2:30 pm to discuss the following items proposed by the Administration:

- (a) Trade relations between the Mainland and Hong Kong; and
- (b) Progress report on Research and Development Centres 2012-2013.

4. Referring to Mr CHUNG Kwok-pan's letter to the Chairman dated 13 May 2013 about the Import and Export (General) (Amendment) Regulation 2013 (the Amendment Regulation), the Chairman said the Administration had advised that measures under the Amendment Regulation were consistent with the requirements of the World Trade Organization (WTO). The Administration had submitted a notification on the measures to WTO Secretariat in late April 2013 in fulfillment of the notification requirements under WTO. The Chairman said that Mr CHUNG Kwok-pan had taken note of the Administration's response and had no further comment.

5. Referring to Ms Emily LAU's letter to the Chairman dated 16 May 2013 on issues relating to media reports on the Administration's decision to take into account the possible reaction of the Mainland community in formulating government policies, the Chairman informed members that the Administration was requested to provide a written response to the letter. The Chairman suggested and Ms LAU agreed that the Panel would consider how to follow up the issues after receiving the Administration's written response.

(Post-meeting note: The Administration's response to Ms Emily LAU's letter was issued to members vide LC Paper No. CB(1)1267/12-13(01) on 10 June 2013.)

IV. Report on the progress of implementation of the Dedicated Fund on Branding, Upgrading and Domestic Sales

(LC Paper No. CB(1)1026/12-13(04) -- Administration's paper on report on the progress of implementation of the Dedicated Fund on Branding, Upgrading and Domestic Sales

LC Paper No. CB(1)1026/12-13(05) -- Paper on the dedicated fund on branding, upgrading and domestic sales prepared by the Legislative Council Secretariat (background brief)

Presentation by the Administration

6. At the invitation of the Chairman, Permanent Secretary for Commerce and Economic Development (Commerce, Industry and Tourism) (PSCIT) briefed members on the implementation progress of the Dedicated Fund on Branding, Upgrading and Domestic Sales (the BUD Fund). Details of the implementation progress were set out in the Administration's paper (LC Paper No.CB(1)1026/12-13(04)), which covered the number and an analysis of applications received and approved, the principles for assessment, monitoring and review, as well as promotion and publicity.

Discussion

Assessment of applications

7. Noting that only about one-third of the applications under the Enterprise Support Programme (ESP) was approved, the Chairman enquired about the assessment mechanism of the programme. PSCIT responded that the Administration had established a Programme Management Committee (PMC) and an Inter-departmental Committee (IDC) to consider ESP applications and had also engaged the Hong Kong Productivity Council (HKPC) to provide secretariat support to the programme. The PMC was chaired by PSCIT and comprised members from various sectors, including trade associations, as well as those with expertise or experience in branding, upgrading and domestic sales.

8. PSCIT advised that the HKPC would provide a preliminary assessment for each ESP application for consideration by the IDC. The IDC would then make a recommendation to the PMC for consideration and approval. In assessing the applications received, the HKPC, the IDC and the PMC would take into account guiding principles, including whether the project was feasible and viable from a commercial angle, whether the implementation plan of the project was concrete and clear, and whether the applicant enterprise had sufficient resources and the requisite expertise to implement the project. The PMC members from different disciplines of the trade and industry would be able to provide valuable comments from a commercial angle.

9. Mr Jeffrey LAM and Dr LAM Tai-fai welcomed the introduction of the BUD Fund to assist Hong Kong enterprises in enhancing their competitiveness and developing their business in the Mainland market through branding, upgrading and restructuring their operations and promoting domestic sales in the Mainland. Mr Jeffrey LAM expressed concern about the long processing time of applications reflected by some applicant enterprises. In response, PSCIT advised that in some cases, the applications could not be processed until the applicant enterprises had submitted the necessary information. The PMC would usually meet once every three months and the applications would be considered by the PMC in batches at its meetings. In response to Mr Jeffrey LAM's further enquiry, PSCIT advised that participation in a particular trade fair or exhibition was a quantifiable and measureable deliverable, and could be used as an objective yardstick for the assessment and monitoring of the project concerned.

10. The Chairman and Dr LAM Tai-fai noted with concern that the number of applications from manufacturing enterprises was lower than that from non-manufacturing enterprises, although a major objective of the BUD Fund was to support and encourage the upgrading and restructuring of Hong Kong enterprises engaging in import processing operations in the Mainland. Dr LAM urged the Administration to consider allowing these enterprises to claim depreciation allowances under the Inland Revenue Ordinance in respect of their machinery or plants in the Mainland and to enjoy the 50:50 basis of tax apportionment, so as to facilitate the upgrading and restructuring of Hong Kong enterprises in the Mainland.

11. At the request of Dr LAM Tai-fai and the Deputy Chairman, PSCIT agreed to provide statistics on the ESP, including the breakdown by industry in respect of the number of applications received and approved, as well as the breakdown by number of full-time staff employed by enterprises in respect of approved applications.

(Post-meeting note: The information provided by the Administration was circulated to members vide LC Paper No. CB(1)1180/12-13(01) on 30 May 2013.)

12. The Chairman, the Deputy Chairman, Mr Jeffrey LAM and Dr LAM Tai-fai considered that the cumulative funding ceiling of \$500,000 per enterprise under the ESP was not a very significant amount since the total expenditure on brand development, upgrading and restructuring as well as domestic sales promotion could be much higher. The Chairman enquired whether the Administration would consider providing further support to the enterprises after they had achieved some results in the first stage. PSCIT responded that the cumulative funding ceiling of \$500,000 was approved by

the Finance Committee of the Legislative Council. The BUD Fund aimed to provide an incentive for Hong Kong enterprises to invest more in developing brands, upgrading and restructuring their operations, and tapping the Mainland domestic market. The Administration should strike a balance between the proper use of public money and assisting the enterprises' business operations. PSCIT advised that since funding would be provided on a matching basis, each enterprise subsidized under the ESP could implement project(s) up to a total cost of \$1,000,000 which was a good sum for the enterprises, especially small and medium enterprises (SMEs), to formulate new business strategies and test the initiatives for developing the Mainland market.

13. Mr Charles MOK and Mr Jeffrey LAM enquired whether the Administration would consider extending the scope of the BUD Fund in the future to assist Hong Kong enterprises in exploring the overseas markets, such as Taiwan and the Middle East markets. PSCIT responded that the BUD Fund aimed at providing funding support for Hong Kong enterprises to capture opportunities arising from the National 12th Five-Year Plan, in particular exploring and developing the Mainland market through developing brands, upgrading and restructuring their operations, and promoting domestic sales in the Mainland. As regards developing overseas markets, the SME Export Marketing Fund (EMF) administered by the Trade and Industry Department (TID) was available to help SMEs to participate in promotional activities to develop export markets, such as participating in exhibitions and trade missions and placing advertisements on trade publications targeting export markets and eligible trade websites. The Administration had proposed in the 2013-2014 Budget to raise the cumulative grant ceiling for each SME under EMF from \$150,000 to \$200,000, subject to the meeting of relevant additional conditions.

Monitoring and review

14. Mr Andrew LEUNG enquired about the monitoring of the approved projects, and whether any measures would be introduced to assist the funded enterprises to resolve problems encountered in implementing the projects.

15. In response, PSCIT advised that under the ESP, applicant enterprises were required to provide the expected project deliverables which should be quantifiable and measurable. Successful applicants were required to submit final reports and audited accounts upon project completion. Depending on the duration of the projects, interim progress reports and annual audited accounts would be required. To enhance monitoring of the approved projects, in addition to reviews conducted by HKPC, IDC and PMC on the reports submitted by the enterprises, the HKPC would also conduct on-site

checks of selected projects. The Administration would closely monitor the progress of the approved projects to ensure that public money was used properly, and would assess the effectiveness of the BUD Fund upon completion of the projects.

16. On assistance to enterprises, PSCIT advised that TID's Support and Consultation Centre for SMEs provided SMEs with a comprehensive range of business information, advice, and consultation services, which included organizing seminars, workshops and other activities regularly to help SMEs enhance their business knowledge and entrepreneurial skills. Director, Corporate Services of HKPC supplemented that the HKPC also provided Hong Kong enterprises with support services on technological upgrading, management improvement, branding and market development, etc.

17. Dr LAM Tai-fai pointed out that mastering accurate market information was crucial for Hong Kong enterprises to explore and develop the Mainland market. Apart from providing financial support, the Administration should also provide Hong Kong enterprises with Mainland market information. PSCIT responded that the BUD Fund would be complemented by other measures to help Hong Kong enterprises explore and develop the Mainland market. In this connection, TID, the offices of the Government of the Hong Kong Special Administrative Region in the Mainland (Mainland offices), the Hong Kong Trade Development Council (TDC), as well as different trade and industry organizations had been gathering and disseminating diverse market information to Hong Kong enterprises to enable them to understand the business environment and local customer needs in the Mainland. Various activities including information sessions, seminars, and experience-sharing sessions had been held in this regard. PSCIT further advised that TDC's new initiative to open the Design Gallery "shop-in-shop" inside department stores in the Mainland offered additional platforms on top of the existing Design Gallery shops for Hong Kong enterprises to showcase their products in the Mainland market. TDC would identify more new partners for setting up more "shops-in-shop" in different Mainland cities.

18. The Deputy Chairman enquired about the basis for evaluating the effectiveness of the BUD Fund. Dr LAM Tai-fai pointed out that brand building and developing the Mainland domestic market required long-term and sustained efforts. Enterprises using funding from the BUD Fund to start off to explore and develop the Mainland market might not be able to earn profits in the short term. PSCIT responded that the BUD Fund was launched on 25 June 2012 and would be open for applications for five years. The Administration would update the Panel again on the implementation progress of the BUD Fund, including information on the progress and

effectiveness of the approved projects when more projects were implemented and completed in the future.

Promotion and publicity

19. Dr LAM Tai-fai and Mr Jeffrey LAM relayed the industry's concern about problems encountered in making the applications. Dr LAM called on the Administration to step up the promotion and publicity efforts so as to enhance the awareness and understanding of the BUD Fund amongst Hong Kong enterprises, including both the manufacturing and non-manufacturing industries. PSCIT responded that the HKPC had organized seminars in Hong Kong and the Pearl River Delta to introduce the BUD Fund application criteria and procedures and to explain matters that required the enterprises' attention in making applications. The HKPC would also produce a promotional video which would be shown on HKPC's various promotional and publicity platforms, including the dedicated website of the ESP.

20. PSCIT further advised that following the completion of some approved projects, the HKPC planned to organize two symposiums in 2013-2014 to invite funded enterprises to share with other enterprises their experiences in implementing the projects and the benefits brought to the development of their businesses. The HKPC would also publish a guidebook on the experience of enterprises from various industries in branding, upgrading and domestic sales. The guidebook would be uploaded to the ESP website and distributed free of charge.

21. The Chairman and Dr LAM Tai-fai recommended that Hong Kong SMEs should explore new markets in the second and third tier cities in the Mainland, rather than the first tier cities such as Beijing and Shanghai, where competition was fierce. Dr LAM opined that the Administration should collaborate with the provincial and municipal governments beyond the Guangdong Province to further promote the BUD Fund.

22. PSCIT took note of the Chairman's and Dr LAM Tai-fai's views. He responded that the Administration would explore to further promote the BUD Fund in collaboration with different provinces and municipalities through the Mainland offices.

Summing up

23. The Chairman concluded that members generally supported the implementation of the BUD Fund. He called on the Administration to report to the Panel regularly on the implementation progress of the BUD Fund.

V. Fostering the development of intellectual property trading in Hong Kong

(LC Paper No. CB(1)1026/12-13(06) -- Administration's paper on fostering the development of Intellectual Property trading in Hong Kong

LC Paper No. CB(1)1026/12-13(07) -- Paper on the development of intellectual property trading prepared by the Legislative Council Secretariat (background brief))

Presentation by the Administration

24. At the Chairman's invitation, the Secretary for Commerce and Economic Development (SCED) briefed members on the development of intellectual property (IP) trading in Hong Kong, and the formation of the Working Group on IP Trading as a dedicated initiative by the Administration to promote the development of Hong Kong as an IP trading hub. Details were set out in the Administration's paper (LC Paper No. CB(1)1026/12-13(06)).

Discussion

Creation of employment opportunities and grooming of talents

25. Mr Charles MOK welcomed the Administration's initiative in fostering the development of IP trading in Hong Kong. He was keen to ensure that the initiative would help spearhead the development of innovation and technology in Hong Kong and enhance research and development (R&D) capacity instead of just benefitting business enterprises and professional sectors that provided intermediary IP support services, such as the legal and financial sectors.

26. SCED responded that the development of IP trading would benefit various sectors of the community. By enhancing the local R&D capacity and facilitating technology transfer, IP trading would provide the underpinnings for Hong Kong to become an innovation and technology hub. The development of IP trading would also help drive the development of creative economy by maximizing the commercial value of their creative contents, and in turn create quality employment opportunities in related industries. High value-added intermediary service sectors supporting IP

trading, such as IP agency, IP management and consulting, legal, arbitration, accounting, valuation, financing and insurance services, would also stand to benefit as demand for their services increased. Hong Kong's small to medium-sized enterprises could also grasp the opportunities presented by IP trading to increase their competitiveness and seek further business growth through branding and upgrading.

27. The Deputy Chairman was concerned whether Hong Kong had a sufficient pool of IP talents to support the sustained development of IP trading. Pointing out the shortage of IP valuation professionals, Mr Martin LIAO enquired about the Administration's strategy on nurturing and recruiting talents in this regard. He also enquired about measures to facilitate the financial system in Hong Kong to support IP trading which very often involved high-end technology with huge transaction amount.

28. SCED said that Hong Kong had long been involved in various forms of IP trading activities and therefore had a pool of professional talents providing various intermediary services for IP trading. Financing and valuation for IP trading were the two focus areas that the Working Group on IP Trading would look at. He added that the Working Group would set out an overarching vision of building up the necessary clusters conducive to the overall development of Hong Kong as a knowledge-based economy that would encourage the creation, exploitation and commercialization of IP and support enterprises to turn IP contents into economic benefits and look for innovative ways to build, manage, value and leverage IP assets strategically to drive innovation and growth.

29. While concurring with SCED's views that Hong Kong possessed the talents required for the development of IP trading, Mr Charles MOK opined that efforts should be made to create quality job opportunities in the innovation and technology sector to attract young talents to pursue tertiary education in the related disciplines and take up long-term career in the innovation and technology sector. SCED responded that the development of IP trading would help drive private investment in R&D which in turn would provide economic incentives for talent resource development in the innovation and technology sector.

Enhancing the IP protection regime

30. Pointing out that patent registration was territory-based, the Deputy Chairman enquired if the Administration would explore the possibilities of fostering mutual recognition of patents between Hong Kong and other jurisdictions, in particular the Mainland, to facilitate the trading of IP rights. She also enquired about the Administration's plan on enhancing the IP

protection regime in the digital environment and the local patent registration system to foster the development of IP trading.

31. SCED responded that contracts for IP trading would stipulate what IP regime would be adopted as the basis for the transaction and would also set out the territorial limits for the use of the concerned IP. In respect of the patent system, SCED advised that following a review conducted by the Advisory Committee on Review of the Patent System in Hong Kong, the Government had decided to develop the "original grant" patent (OPG) system in Hong Kong which would operate in parallel with the existing re-registration system. The Director of Intellectual Property added that as setting up an OGP system with substantive examination capability would take a substantial amount of time, the Administration would identify outside patent office(s) to undertake substantive examination in the course of developing the OPG system. The introduction of the OPG system would enable Hong Kong to keep pace with the patent systems of other developed and developing economies, providing a common basis for Hong Kong to expedite subsequent patent applications with other jurisdictions.

32. Ms Emily LAU referred to the lapse of the Copyright (Amendment) Bill 2011 (the Bill) following the end of the previous term of the Legislative Council (LegCo) and questioned why the issue of copyright protection in the digital environment, which was related to the development of IP trading, was not addressed in the Administration's paper. SCED explained that copyright was just one of the IP rights that would be transacted under IP trading, and the Bill bore no direct relationship with the IP trading promotion initiatives currently discussed. He recalled that the LegCo Bills Committee formed to scrutinize the Bill in the 2011/2012 legislative session supported the resumption of Second Reading Debate on the Bill with suitable amendments. But owing to other pressing business that LegCo had to transact, the Second Reading Debate was not resumed and the Bill lapsed upon expiry of the previous term of LegCo. In view of the complexity of the legislative proposals, the Administration would continue to engage various stakeholders to address issues of public concern, including "parody" and the related copyright issues. SCED assured members that the Administration would take full account of the views of different stakeholders and the latest developments in other jurisdictions to ensure the continuous effectiveness of the copyright laws in the digital environment, and to strike a reasonable balance between the interests of the copyright holders and users in finalizing the legislative proposals for reverting to LegCo.

Stimulating private R&D investment

33. Mr Charles MOK opined that the Administration's policies on IP protection and development of IP trading should complement the development of innovation and technology in Hong Kong. Effective measures should be put in place to attract overseas enterprises to set up research and development (R&D) operations and take part in IP trading in Hong Kong. He urged the Administration to step up its efforts in promoting awareness of innovation and the concept of IP trading and management to local enterprises and R&D companies and also to enhance their understanding of the related policies to facilitate their participation in IP trading activities. SCED responded that being a world city and an international financial centre with the Mainland as the hinterland, Hong Kong was well-positioned to become the business, trading and services hub for the Mainland and the region as a whole. Given its outstanding business environment, sound legal system, robust IP rights protection system, a simple and low tax regime, the introduction of the OGP system and experience in areas such as R&D, design, trading and business services in support of industrial production, Hong Kong had the potential to develop into a regional IP trading hub. He said that the Working Group on IP Trading would review the existing policies and advise on the overall strategies and support measures to promote innovation and technology and facilitate IP trading in Hong Kong. On promoting IP trading, SCED said that the Administration had been exchanging views with the stakeholders through various platforms, including the Digital 21 Strategy Advisory Committee, to enhance their understanding on the related policies.

34. The Deputy Chairman and Mr WONG Ting-kwong pointed out that Hong Kong's R&D expenditure at 0.72% of the gross domestic product (GDP) was low compared with the neighbouring countries and considered the current level of R&D investment grossly inadequate. They enquired about the Administration's timetable for increasing Hong Kong's overall R&D investment to 0.8% of GDP as proposed in the Chief Executive's election manifesto. Mr WONG Ting-kwong said that the Democratic Alliance for the Betterment and Progress of Hong Kong had put forward a proposal on 10 April 2013 for promoting Hong Kong as an IP trading centre. He called on the Administration to provide the necessary support in terms of policy, human resource development, and funding.

35. SCED responded that about 60% of the overall R&D expenditure in Hong Kong came from the Government, with the remaining 40% taken up by the private sector. He added that a prosperous IP trading environment would foster the customization of innovations and commercialization of R&D results which would in turn spur private investment in R&D that would

lead to a higher level of R&D expenditure as a percentage of GDP. Mr Charles MOK opined that the Administration should also provide incentives, such as tax concessionary measures, to encourage private R&D investment and promote the use of IP.

Composition of the Working Group on IP Trading

Admin 36. Ms Emily LAU requested the Administration to provide information on the background of the members of the Working Group on IP Trading, including their profession/occupation and any known affiliation with political parties, to enhance transparency of the related appointments. She said that this was in line with the current practice on the provision of information to the Finance Committee on membership of government-appointed boards and committees. SCED remarked that only the work/professional background of the members of the Working Group should be relevant. Deputy Secretary for Commerce and Economic Development (Commerce and Industry) 2 added that members of the Working Group were drawn from a wide range of sectors related to IP trading, comprising Government representatives, industry stakeholders and experts from different fields to promote closer collaboration among Government, industry, academia and the research sector.

Support for the Hong Kong International Arbitration Centre (HKIAC)

Admin 37. Mr Dennis KWOK said that some members of the HKIAC had expressed concern to him that the support provided by the Government was insufficient for HKIAC to fully perform its work in promoting Hong Kong as an international arbitration centre. He was given to understand that the HKIAC had obtained funding for its projects from the Professional Services Development Assistance Scheme (PSDAS) but the Government had not injected additional funds to the PSDAS. Mr Dennis KWOK enquired if the Government would enhance its funding support for the HKIAC and similar institutions in Hong Kong. SCED responded that the Working Group on IP Trading would explore policy initiatives for enhanced Government support for the public sector in promoting IP Trading. The Administration would provide information on Government support for the HKIAC, including information on the PSDAS.

Summing up

38. The Chairman concluded that the Panel supported the development of IP trading as it would present enormous business opportunities for Hong Kong, contribute to the upgrading of the economy, and create career opportunities in various high-end business sectors for the younger generation.

VI. Any other business

39. There being no other business, the meeting ended at 12:40 pm.

Council Business Division 1
Legislative Council Secretariat
9 July 2013