

LC Paper No. CB(1)555/99-00
(These minutes have been
seen by the Administration)

Ref: CB1/PL/TI/1

Legislative Council
Panel on Trade and Industry

Minutes of meeting held on
Monday, 5 July 1999, at 2:30 pm
in Conference Room A of the Legislative Council Building

Members present : Hon CHAN Kam-lam (Chairman)
Dr Hon LUI Ming-wah, JP (Deputy Chairman)
Hon Kenneth TING Woo-shou, JP
Hon James TIEN Pei-chun, JP
Hon David CHU Yu-lin
Hon NG Leung-sing
Prof Hon NG Ching-fai
Hon MA Fung-kwok
Hon CHEUNG Man-kwong
Hon HUI Cheung-ching
Hon CHAN Kwok-keung
Hon Mrs Sophie LEUNG LAU Yau-fun, JP
Hon SIN Chung-kai
Dr Hon Philip WONG Yu-hong

Members absent : Hon Cyd HO Sau-lan
Hon Mrs Selina CHOW LIANG Shuk-ye, JP

Public officers attending : For Agenda Item III

Mr CHAU Tak-hay
Secretary for Trade & Industry

Miss Yvonne CHOI
Deputy Secretary for Trade and Industry

Heads of Overseas Offices

Miss Jacqueline WILLIS
Commissioner for Economic and Trade Affairs,
USA

Mr Christopher JACKSON
Director-General, Hong Kong Economic and
Trade Affairs, Washington

Ms Sandra LEE
Director-General, Hong Kong Economic
and Trade Office, London

Mr Paul LEUNG
Principal Hong Kong Economic and Trade
Representative, Tokyo

Mr Andrew WONG
Special Representative for Hong Kong Economic
and Trade Affairs to the European Communities,
Brussels

Mrs Jenny WALLIS
Director, Hong Kong Economic and Trade Affairs,
Sydney

Mr Clement CHEUNG
Director, Hong Kong Economic and Trade Affairs,
Singapore

Mr Raymond FAN
Director, Hong Kong Economic and Trade Affairs,
New York

Mr Donald TONG
Director, Hong Kong Economic and Trade Affairs,
Toronto

For Agenda Item IV

Mr CHAU Tak-hay
Secretary for Trade and Industry

Mr Francis HO
Director-General of Industry

Mr Kenneth MAK
Acting Deputy Secretary for Trade and Industry

For Agenda Item V

Mr Francis HO
Director-General of Industry

Ms Annie CHOI
Assistant Director-General of Industry

Mr Bobby CHENG
Principal Assistant Secretary for Trade & Industry

For Agenda Item VI

Mr Stephen SELBY
Director of Intellectual Property

Mr Vincent POON
Assistant Commissioner of Customs & Excise
(Control and Intellectual Property)

Mr WU Kam-yin
Principal Assistant Secretary for Trade and
Industry

**Attendance by
invitation**

: For Agenda Item V

Representatives of the Venture Capital
Companies

Mr Victor KUNG
Executive Vice President, Walden International
Investment Group

Mr George A RAFFINI
Managing Director, HSBC Private Equity
Management

Mr Hanson CHEAH
Executive Director, Asia Tech Ventures Ltd

For Agenda Item VI

Representatives of French luxury goods industry

Mr Serge BRUNSCHWIG
President, Louis Vuitton Hong Kong Ltd

Mr Frederic THIRY
Legal Counsel, Louis Vuitton Hong Kong Ltd

Mr Robert ARNOLD
Partner, Baker & McKenzie

Mr Patrice BRENDLE
President of Comite Colbert

Clerk in attendance : Ms Estella CHAN
Chief Assistant Secretary (1)4

Staff in attendance : Miss Anita HO
Assistant Legal Adviser 2

Mr Daniel HUI
Senior Assistant Secretary (1)5

I Confirmation of minutes and matters arising
(LC Paper No. CB(1)1628/98-99 - Minutes of meeting on 3 May 1999)

The minutes of the meeting held on 3 May 1999 were confirmed.

II Information papers issued since last meeting
(LC Paper No. CB(1)1450/98-99 - Legislative Amendments on
Production Notification (PN)
Arrangement and Electronic Data
Interchange Enabling Legislation
for PNs and Certificate of Origin

LC Paper No. CB(1)1462/98-99 - Special Finance Scheme for Small
and Medium Enterprises)

2. Members noted the information papers issued since last meeting.

**III Briefing by Heads of Hong Kong Economic and Trade Offices
overseas**

(LC Paper No. CB(1)1629/98-99(01) - Information paper provided by the Administration)

Hong Kong Economic and Trade Offices (ETO) in the United States of America

3. Mr SIN Chung-kai referred to the Report issued by a US Congressional Committee chaired by Congressman Christopher COX ("the Cox Report") which cast a negative image on Hong Kong's control system over trade in strategic commodities. He enquired whether there was any legislative proposals in the US targeting at Hong Kong in this respect and about the lobbying strategy adopted by Hong Kong's ETO in Washington (Washington Office) minimizing the adverse impact of the Cox Report on Hong Kong. Mr HUI Cheung-ching queried whether the Washington Office had given prior warning to the HKSAR Government about the Cox Report and expressed concern about the adequacy of communication between the Government and its Washington Office. In response, the Secretary for Trade and Industry (STI) advised that over the past few years, the Washington Office had been lobbying US Congressmen and their staffers on a number of issues including Hong Kong's control over trade in strategic commodities and specific bills which might have adverse impact on Hong Kong. These behind-the-scene lobbying activities had been successful in reducing the amount of support in the US Congress for proposals against Hong Kong. The Washington Office also made joint efforts with business organizations in the US sharing common interest with Hong Kong in lobbying US Congressmen and their staffers. This lobbying strategy would be continued. He also confirmed that the HKSAR Government had been alerted by Washington Office of the Cox Report when the Report was being prepared. Nonetheless, formal responses by the HKSAR Government to the Cox Report could only be made after the Report was formally released.

4. Regarding specific lobbying activities being carried out by the Washington Office, the Director-General, Hong Kong Economic and Trade Affairs, Washington (DG(ETA)/Wash) advised that US-China relation was a very sensitive subject in US Congress at the moment and strong anti-China sentiment was at work in the right wing of the Republican Party. Under the circumstances, the Washington Office had been busy meeting with its contacts to explain to them the real situation of Hong Kong after the reunification in 1997 with a view to dissuading them from supporting any proposal which would adversely affect Hong Kong. He quoted for example that as a result of these lobbying efforts, an important provision in a Bill targetted at Hong Kong was removed at the committee stage. He supplemented that although the anti-China sentiment had weakened, the Washington Office would keep up its lobbying efforts.

5. In reply to Mr SIN Chung-kai's question about the danger of Hong Kong being downgraded by the US from the position of Tier-2 countries/regions to Tier-3 countries/regions under the US export control system on computers, the

Commissioner for Economic and Trade Affairs, USA (C(ETA)/USA) advised that during a recent meeting between the Chief Secretary for Administration and US Officials in Washington, the latter had indicated clearly that Hong Kong could maintain its Tier-2 country/region status. DG(ETA)/Wash added that certain proposed changes to restrictions on export of computers were being discussed in the US Congress. The proposals would upgrade certain countries from Tier-2 to Tier-1 and raise the power of computers that could be exported to Tier-2 and Tier-3 countries. These proposals, if approved, would benefit US exports and were therefore of major interest to US computer companies.

6. Mr James TIEN enquired whether the release of the Cox Report would dampen US business community's initiatives to co-operate with Hong Kong companies in high-tech projects. C(ETA)/USA replied that based on recent discussions with her contacts in the US business sector, there was no evidence that their interest in investing in Hong Kong had diminished. On the contrary, many companies in the west coast of USA had indicated interest to participate in the Cyberport project. The Director, Hong Kong Economic and Trade Affairs, New York remarked that as New York was essentially a financial centre, most of the companies there were not concerned about the Cox Report.

7. Mr James TIEN pointed out that it would greatly enhance the effectiveness of our lobbying work in the US if selected US Congressmen, staffers or assistants to congressmen could join sponsored visits to Hong Kong to get first hand information on the city. He asked whether the Administration had any plans to organize such sponsored visits. STI and C(ETA)/USA agreed that sponsored visits of US Congressmen and staffers to Hong Kong would be the best way to let them see for themselves the successful implementation of the "one country, two systems" in HKSAR. STI advised however that US Congressmen and staffers were not allowed to accept foreign government's sponsored visits. As such, he would appeal to private sector organizations to organize more such sponsored visits.

8. As regards whether the Administration would provide financial support for Legislative Council Members to visit US Congressmen to promote Hong Kong's interests, STI reiterated that the Administration would continue its existing lobbying strategy of forming alliances with the US business sector sharing common interests with HKSAR. He advised that the US business sector which provided a large number of jobs in the US was very influential in the US Congress.

Hong Kong Economic and Trade Office in Tokyo

9. In reply to Mr NG Leung-sing's question on the current economic situation of Japan, the Principal Hong Kong Economic and Trade Representative, Tokyo (PR(T)) advised that the economic data recently released by the Japanese Government were encouraging, showing a 1.9% growth in GNP in the first quarter of 1999. Consumer spending and capital investments also increased with the return of confidence in the business sectors and among consumers. He cautioned however that the Japanese economy was undergoing structural changes and it would take time for the Japanese economy to regain full strength.

10. As regards Japanese tourists visiting Hong Kong, PR(T) remarked that there was an upward trend of Japanese tourists visiting Hong Kong which has increased by 15% in the first quarter of 1999 as compared with the same period in 1998. He added that if the Japanese economy continued to improve, the upward trend of Japanese tourists visiting Hong Kong could be sustained.

11. The Chairman enquired about the latest position regarding the different charges levied by the Japanese Consulate in Hong Kong on visa applications submitted by HKSAR passport holders and BNO passport holders. PR(T) replied that the issue was brought up by the Chief Secretary for Administration during her recent meeting with the former Prime Minister of Japan who had subsequently followed up the matter with the Japanese government. He undertook to monitor the progress of the matter.

Hong Kong Economic and Trade Office in Brussels

12. In reply to the question on the latest position regarding the export ban by the European Communities (EC) on diary products from a few of its member countries, the Special Representative for Hong Kong Economic and Trade Affairs to the European Communities advised that the Hong Kong Economic and Trade Office in Brussels had monitored closely the subject matter as requested by the Department of Health. As the few member countries, except Belgium, had taken measures to guarantee the safety of diary products to the satisfaction of EC, the export ban on these countries except Belgium had been removed. As sample tests on diary products of Belgium conducted the week before still showed the existence of an unacceptable level of dioxin, a decision by EC on lifting the export ban on diary products from Belgium had therefore not been made. He said that the Brussels Office would keep track of the development on this subject and report progress to the relevant Departments.

IV Briefing on the second and final report of the Chief Executive's Commission on Innovation and Technology

13. At the Chairman's invitation, STI briefed members on the major recommendations of the Second and Final Report of the Chief Executive's Commission on Innovation and Technology (CIT) as set out in the Executive Summary of the Report.

14. Noting that CIT had recommended the establishment of a policy group headed by the Financial Secretary and comprising relevant bureau secretaries to set and co-ordinate policy on innovation and technology, Dr LUI Ming-wah questioned the rationale for excluding representatives from trade and industry in the proposed policy group. He opined that inputs from practitioners in trade and industry were very important in order to formulate appropriate policies on innovation and technology. In response, STI advised that CIT's recommendation on the policy-making mechanism consisted of two parts. In addition to the proposed policy group which comprised civil servants only, CIT also recommended the setting up of a standing advisory body reporting to the Chief Executive. This high level advisory body would have members representing trade and industry. He further advised that a few policy groups had been set up within the Government to co-ordinate policy on major policy areas which cut across different bureaux and departments. He emphasized that the Government had not taken a stance in regard to the recommendations in CIT's Second Report and Dr LUI's comments would be taken into account when the Administration examined the various recommendations of the report.

15. Mr James TIEN observed that the proposed standing advisory body was an advisory committee without financial resources and executive authority. He asked whether the Administration would consider the option of changing the advisory body into an executive authority similar to the Trade Development Council; and if not, he doubted the difference in function between the proposed standing advisory body and the existing Industry and Technology Development Council (ITDC) which advised Government on industrial and technology matters. STI responded that the proposed standing advisory body would be a high level advisory body whose advice would be highly regarded by the Administration in making policy decisions. The existing ITDC advised on policy matters relating to technology development in industry but the proposed standing advisory body would advise on technology development in all sectors of the economy and on innovation matters as well. He also advised that the chairman of the proposed advisory body would be a highly respected person in our community and would have communication channels with the Chief Executive, the Chief Secretary for Administration and the Financial Secretary.

16. Dr LUI Ming-wah was concerned whether the complicated Government institutional set-up for promoting innovation and technology would affect the efficiency of policy implementation. In reply, STI emphasized that the Chief

Executive had a very keen interest in promoting innovation and technology and the relevant policies would be implemented with utmost efforts.

17. In reply to Mr Kenneth TING's question on collaboration between HKSAR and the Mainland on innovation and technology development, the Director-General of Industry (DGI) advised that CIT's First Report had made specific recommendations on collaborations with the Mainland, including co-operation with the universities, establishment of common data bases and attracting talents from the Mainland. As regards collaboration between local academic/research institutes and industry in fostering technology innovation, DGI said that the availability of funding from Innovation and Technology Fund (ITF) for joint research projects between academic institutes and industry would foster co-operation between academic institutes and the industry on research and development work.

18. Mrs Sophie LEUNG supported the need to foster an innovation and technology culture in Hong Kong and pointed out the importance of adequate Government support to assist small entrepreneurs to venture into new developments and innovations. STI advised that the setting up of a \$5 billion ITF and the proposed Applied Science and Technology Research Institute were the initiatives taken by Government to assist the private sector in innovation and technology development. He reiterated that the Government aimed to foster an innovation and technology culture in HKSAR such that our future economic development could be diversified from over-reliance on the property sector. DGI supplemented that there would be funding schemes under ITF to assist small entrepreneurs undertaking commercial research and development work at the pre-market launch stage, and to provide matching grant for private companies undertaking commercial research and development work in collaboration with local universities.

19. As regards whether there would be arrangements for divestment of Government's interest in Government-industry joint projects, DGI replied in the affirmative and said that divestment of Government's interests in joint projects was necessary to ensure return of funds to the Government for financing new projects.

20. Dr LUI Ming-wah supported the relaxation of immigration restriction on Mainland talents in order to attract them to work in Hong Kong. He opined however that if the Government's aim was to attract talents in development of downstream technology, the targets should not be outstanding scientists who would only be interested in academic rather than commercial research. He enquired about the criteria for selecting qualified personnel under the proposed scheme. STI responded that the Administration had not decided on the qualifying criteria for participation in the scheme but paragraph 3.18 of CIT's Second Report had recommended some qualifying criteria to which the Administration would give further consideration.

21. In conclusion, the Chairman said that the Administration should further examine the recommendations of CIT's Second Report and keep the Panel informed of the progress in their implementation.

V Report by three Venture Capital Companies on Applied Research Fund

(LC Paper No. CB(1)1424/98-99 - Information paper provided by the Administration)

22. Introducing the information paper provided by the Administration, DGI advised that the Applied Research Fund (ARF) had been administered by the Applied Research Council (ARC) since its establishment in 1993, but the results achieved were less than satisfactory. Taking into account comments on the operation of the Fund by the Director of Audit and Legislative Council Members, ARC decided in November 1998 to appointed three venture capital companies in the private sector to manage the ARF. The new arrangements were introduced as the Administration believed that professional fund managers in the private sector should be able to make better use of the funds available in ARF because of their professional experience and exposure to the specialized field of investment. Moreover, the fund managers could also provide management, marketing and networking input to the investee companies. He further advised that up to the present moment, the three fund managers had received about 160 written proposals and invested in eight projects with total fund invested amounting to \$120 million. These results compared favourably with ARF's total investments of \$110 million during 1993-1998. He further remarked that the ITF to be established in the near future, together with the ARF and the proposed Growth Enterprises Market would give integrated support for innovation and technology development in HKSAR.

23. Mr CHEUNG Man-kwong opined that the Democratic Party was supportive of the policy of engaging professional fund managers to manage the ARF. He referred to a report on a member of the senior management of one of the three venture capital companies having pecuniary interests in an investee company, and expressed concern about the adequacy of the internal control mechanism in preventing conflict of interests. In response, DGI confirmed that a former senior staff member of one of the three venture capital companies was found to have pecuniary interests in a shareholder of the investee company. He further advised that STI had provided a written reply in this regard to Dr LUI Ming-wah's written question at the Legislative Council meeting on 5 May 1999. As the Administration and the relevant parties were examining whether the case involved a breach of contract condition and if so legal litigation might follow, it was therefore inappropriate to disclose details of this case at the moment. He emphasized that the existing contract between ARC and the venture capital companies contained clear provisions on avoidance of conflict of interests. Moreover, he was aware that the venture capital companies had their own internal procedures for dealing with conflict of interest.

24. As regards internal procedures of avoidance of conflict of interests, Mr Victor KUNG said that Walden International Investment Group required the endorsement of an investment committee comprised of local and overseas investment officers for each investment decision made. Before a recommendation on an investment proposal was made to the investment committee, there were different investment officers involved in the evaluation process. Furthermore, an additional procedure of requiring a relevant officer to make a declaration with regard to personal interest in an investment proposal was being put into place. He also remarked that since all the senior staff of Walden International Investment Group were shareholders of the Group and it would be in their interest to achieve success in their investment decisions. Mr George A RAFFINI of HSBC Private Equity Management advised that there were check and balance procedures in his company for making investment decisions and for conducting subsequent reviews on progress of the projects concerned. He said that a unanimous agreement of a 5-person committee was required before investment could be made in any project proposals. The company also engaged external experts such as lawyers and accountants to assist in evaluation of investment proposals. He also said that the senior staff of the company were shareholders and their personal interests were tied up with the success of each investment. Mr Hanson CHEAH advised that the internal procedures of Asia Tech Venture Ltd for avoidance of conflict of interest were similar to those of the other two venture capital companies.

25. In response to Mr CHEUNG Man-kwong's question on whether there was any preference to invest the ARF in Hong Kong-based companies, DGI replied in the affirmative and said that to fulfil the Fund's public mission of fostering technology ventures in Hong Kong, priority would be given to technology companies with their main operation based in Hong Kong.

26. As regards Mrs Sophie LEUNG's question on investment strategy of ARF, Mr George RAFFINI advised that the focus would be on technology-related companies. Based on his company's record, investments in technology company had achieved the highest return amongst other investments in the last 10 years. Mr Hanson CHEAH said that Asia Tech Ventures Ltd. had invested in three items all of which were related to information technology development in Hong Kong's core competence areas, i.e. financial services, properties and tourism.

27. Mr MA Fung-kwok noted that almost all of the investments made by the three venture capital companies were related to information technology and enquired whether the Administration would play a role in ensuring that the investments would be suitably diversified in different sectors of technology-related companies. DGI responded that investments made by the venture capital companies reflected the market trend and the comparative advantage of local technology companies. He also advised that venture capital companies would forward investment recommendations to ARC for approval before

implementation. The Assistant Director-General of Industry supplemented that since about 80% of the written proposals received by the venture capital companies were information technology related proposals, it was not surprising that investments of ARF had concentrated in the information technology sector.

28. On monitoring of performance of investee companies, Mr George RAFFINI advised that HSBC Private Equity Management's representatives sat on the board of the investee companies to monitor their performance. The operation and financial reports of investee companies would be evaluated by experts. Moreover, quarterly reports were also provided to ARC for monitoring the performance of investee companies. As requested by Mr SIN Chung-kai, DGI agreed to brief the Panel on the performance of investee companies on a regular basis.

Admin.

29. Dr LUI Ming-wah enquired about the success rate versus the failure rate of past investments made by the venture capital companies. He also enquired whether the contract between ARC and the venture capital companies included any provisions on penalty for the fund managers in case of investment failures. In response, DGI remarked that there would always be risks in any investment decision and it would be difficult for fund managers to accept penalty provisions in management contracts. He reiterated that provisions in the current contracts with the venture capital companies followed the norm in the venture capital industry and that the existence of a profit-sharing element in the contract would provide an incentive for the managers. As regards the success and failure rate of investments made by venture capital companies, Mr Victor KUNG said that about 10-20% of the investment items were total loss, 10-20% achieved five to eight times return in 10 years, 30% were the average performers, i.e. two to three times return in 10 years, and 30% were non-performer i.e. no real returns were gained. As requested by members, DGI agreed to provide further information on the track records of investment returns achieved by the three venture capital companies.

(Post-meeting note : The follow-up information provided by the Administration has been circulated to members vide LC Paper No. CB(1)1858/98-99.)

VI Report on public consultation on "Combating Intellectual Property Rights Infringements in the HKSAR"

(LC Paper No. CB(1)1629/98-99(02) - Submission from the French luxury goods industry

LC Paper No. CB(1)1629/98-99(03) - Supplementary comments from the French luxury goods industry

LC Paper No. CB(1)1629/98-99(04) - Information paper provided by the Administration)

Discussion with representatives of French luxury goods industry

30. Mr Serge BRUNSCHWIG and Mr Patrice BRENDLE briefed members on the French luxury goods industry's comments on the Administration's consultation paper on Possible Addition Legal Tools in Combating Intellectual Property Rights (IPR) Infringement as set out in the industry's written submission (LC Paper No. CB(1)1629/98-99(03)). They further advised that the French Government had enacted legislation imposing legal liability on consumers of counterfeit goods. French consumers and some sectors of the French community had objected to the legislation before its passage but the successful implementation of the legislation after its enactment had convinced the relevant parties that imposing consumer liability was the solely effective means to stop the demand for counterfeit goods. They suggested that the HKSAR should enact legislation in relation to consumer liability as soon as possible in order to combat intellectual property rights infringement.

31. Mr James TIEN opined that there could be difficulties for consumers to differentiate genuine products from fake products just from the appearance or from the price since there could be sale discounts on genuine products or price mark-ups on fake products. Mr BRUNSCHWIG advised that consumers should be able to differentiate the genuine products from fake products because it was almost impossible to purchase a piece of luxury goods at a fraction of its market price. Mr BRENDLE added that all French luxury goods were sold only in franchised stores. Goods bought at places other than these specialty stores were fake products.

32. Dr LUI Ming-wah asked whether the raw materials for manufacturing the French luxury goods were strictly controlled in order to prevent production of counterfeit products. Mr BRUNSCHWIG replied that there could also be counterfeit raw materials such as fabric and leather. He supplemented that the manufacturing of counterfeit products were carried out in Shenzhen and other overseas countries such as Thailand and Korea and smuggled into Hong Kong. The necessary measure required was to tighten up the legislation to control import of counterfeit goods for any purpose.

33. In reply to Mr MA Fung-kwok's question on difficulties faced by the French government, if any, in enforcing the legislation on consumer liability in respect of counterfeit goods, Mr BRENDLE said that in France a person caught with a small quantity of fake product for personal use would be subjected to a small fine and confiscation of the fake products concerned. However, a large fine or even imprisonment sentence could be imposed if large quantities of fake goods were involved. He further advised that a person would be convicted if the product concerned was verified to be a counterfeit despite the consumer's defence of believing that the product was genuine.

Discussion with the Administration

34. In response to members' enquiries on the Administration's stance with respect to the industry's request for additional police involvement in combating counterfeiting activities particularly at the retail level, the Assistant Commissioner of Customs and Excise (AC/C&E) advised that the Customs and Excise Department (CED) had conducted frequent raids against retail outlets and hawkers selling counterfeit goods in all black spots throughout the territory, averaging about five raids per month. Between January to July 1999, 11 major raiding operations in Tung Choi Street alone had been conducted with about 200 suspects arrested and large quantity of fake goods confiscated. He reiterated that the Police had provided very useful information to CED in combating counterfeiting activities and the close co-operation between the two departments would continue. As regards whether there was any evidence indicating that most of the hawkers arrested were repeated offenders, AC/C&E replied that according to the relevant information on selling of counterfeit goods, repeated offenders were not common.

35. Mr MA Fung-kwok expressed his appreciation of CED's enforcement efforts in combating IPR infringement activities but pointed out that the problem remained very serious as evidenced in the large number of shops selling infringement articles over the whole territory. AC/C&E responded that CED's anti-counterfeiting activities had previously focussed on control actions over manufacturing and import of counterfeit goods and these efforts had achieved some success as there was virtually no manufacturing of counterfeit goods locally and the problem had shifted to the retail level. As such, CED was proposing to set up a Special Task Force to combat IPR infringement at the retail level. The Director of Intellectual Property (DIP) supplemented that the Administration had and would continue to enforce IPR legislation vigorously but cautioned that some form of IPR infringement activities could remain despite all the enforcement efforts.

36. Mr CHEUNG Man-kwong opined that Hong Kong should attach utmost importance to protection of IPR in order to attract investments in development of high-tech industries in Hong Kong. He expressed grave dissatisfaction over the lack of enforcement action on people bringing counterfeit products from

Shenzhen crossing the Hong Kong customs control points. Mr MA Fung-kwok enquired whether the relevant legislation would be amended so that bringing counterfeit goods into Hong Kong for personal use would also be a contravention of the law. In response, AC/C&E advised that a Customs Officer at the cross-border control points would search and inspect a person if the officer suspected that the person was bringing suspected counterfeit goods into Hong Kong for commercial use. For travellers bringing one or two pieces of suspected counterfeit products, Customs Officers would conduct random inspections and requested the traveller concerned to give oral evidence in some cases. AC/C&E reiterated that Customs Officers' had to carry out enforcement actions in accordance with the law. Unless the relevant legislation had been amended to make it an offence to bring into Hong Kong counterfeit goods for any purpose, Customs Officers could only take action on travellers suspected of bringing counterfeit goods into Hong Kong for commercial use.

37. As regards imposing legal liability on consumers of infringement articles, DIP advised that mixed comments on the proposal had been received during the recent consultation exercise conducted by the Administration. The Administration had therefore decided to shelve this option for the time being and would re-consider the option in future when the majority of the community and the Legislative Council supported the proposal. Meanwhile, the Administration would pursue the three short-term measures as set out in the information paper provided by the Administration for the Panel meeting on 7 June 1999(LC Paper No. CB(1)1435/98-99(05)). The Principal Assistant Secretary for Trade and Industry supplemented that legislative amendments would be proposed under the Copyright Ordinance (Cap. 528) to tackle the problem of the use of infringing articles for business purposes. The relevant legislative amendments would be forwarded to the Legislative Council in the 1999-2000 session.

38. As regards Mr CHEUNG Man-kwong's question on co-operation between relevant authorities in HKSAR and the Mainland in combating IPR infringements, DIP advised that he had informally discussed with his counterpart at the State Intellectual Property Office (SIPO) in Beijing, who acknowledged the problem with respect to the abundant supply of infringement articles at Shenzhen. AC/C&E supplemented that the HKSAR Customs and the Mainland's Customs had regular liaison meetings and the issue of combating infringement activities in Shenzhen had been discussed at previous meetings. The relevant authorities at Shenzhen had subsequently taken raiding actions and achieved some deterrent effects.

39. In conclusion, the Chairman said that members of this Panel attached much importance to the subject of IPR protection and would continue to monitor the Administration's follow-up actions on this subject.

VII Any other business

40. The Chairman advised that this meeting was the last regular meeting of the Panel in the 1998-1999 session and meetings in the 1999-2000 session would resume in October 1999.

41. There being no other business, the meeting ended at 5:50 pm.

Legislative Council Secretariat

7 December 1999