

立法會
Legislative Council

LC Paper No. CB(1)1511/99-00
(These minutes have been seen
by the Administration)

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Panel on Trade and Industry

Minutes of meeting
held on Monday, 6 March 2000, at 2:30 pm
in the Legislative Council Chamber

Members present : Hon CHAN Kam-lam (Chairman)
Hon Kenneth TING Woo-shou, JP (Deputy Chairman)
Hon James TIEN Pei-chun, JP
Hon Cyd HO Sau-lan
Hon Fred LI Wah-ming, JP
Dr Hon LUI Ming-wah, JP
Hon NG Leung-sing
Hon Mrs Selina CHOW LIANG Shuk-ye, JP
Hon MA Fung-kwok
Hon CHEUNG Man-kwong
Hon HUI Cheung-ching
Hon CHAN Kwok-keung
Hon Bernard CHAN
Hon SIN Chung-kai

Member Attending : Hon Howard YOUNG (Non-Panel Member)

Members absent : Prof Hon NG Ching-fai
Hon Mrs Sophie LEUNG LAU Yau-fun, JP
Dr Hon Philip WONG Yu-hong

Public officers Attending : **For Item IV**
Mr Philip CHAN
Acting Deputy Secretary for Trade and Industry (2)

Mr Johann WONG
Assistant Secretary for Trade and Industry

Mr Peter CHEUNG
Deputy Director of Intellectual Property

Miss Pancy FUNG
Assistant Director of Intellectual Property (Development)

For Item V

Mr Joshua LAW
Director-General of Trade

Mr Edward YAU
Deputy Director-General of Trade

Ms Salina YAN
Principal Assistant Secretary for Trade and Industry

Attendance by Invitation : For Item IV

Concern Group of Music Copyright Ordinance

Mr Michael LI Hon-shing
Executive Director, the Federation of Hong Kong Hotel Owners

Ms CHAN Shuk-fong
Assistant Executive Director, the Federation of Hong Kong
Hotel Owners

Mr David NG
Chairman, the Hong Kong Federation of Restaurants and Related
Trades

Mr K C LEUNG
Director & General Manager, Wharf Estates Management Co
Ltd

Dr LEE Ka-yan
Council Member, the Hong Kong Medical Association

Mr CHUI Hin-wai
President, Hong Kong Theatres Association

Mr William CHOW
Chairman, Association of Hong Kong Karaoke, Entertainment &
Catering Business Ltd

Mr Albert TSE
Controller, South Pacific Hotel

Composers and Authors Society of Hong Kong Limited

Mr Malcolm BARNETT
Chairman

Mr Geoffrey LAU
Business Manager

Ms Angelina LAW
Senior Manager, Corporate Communications

**International Federation of the Phonographic Industry
(Hong Kong Group) Limited**

Mr Ricky FUNG Tim-chee
Chief Executive Officer, IFPI (HKG) Ltd

Ms Pat TSANG
General Manager, Phonographic Performance (South East Asia)
Ltd

Clerk in Attendance : Mrs Mary TANG
Chief Assistant Secretary (1)6

Staff in Attendance : Miss Anita HO
Assistant Legal Adviser 2

Ms Rosalind MA
Senior Assistant Secretary (1)6

Action

I. Confirmation of minutes of previous meeting
(LC Paper No. CB(1)1092/99-00)

The minutes of the meeting held on 11 January 2000 were confirmed.

II. Information paper issued since last meeting

(LC Paper No. CB(1)1108/99-00 - Report on the progress of operation of the Special Finance Scheme for Small and Medium Enterprises (as at 24 February 2000))

2. Members noted the above-mentioned information paper.

III. Date of the next meeting and items for discussion

(LC Paper Nos. CB(1)1093/99-00(01) and (02) - Lists of outstanding items for discussion and follow-up actions)

3. Members noted that the next meeting would be held on Monday, 3 April 2000 at 2:30 pm. Dr LUI Ming-wah suggested requesting the Administration to submit an update report by the three venture capital companies on Applied Research Fund and brief members on the progress of the proposed Silicon Harbour project. Mrs Selina CHOW advised that as the importation and sale of shark's fins were regulated by the Wild Animals Protection Ordinance, the wholesalers, retailers and the catering industry concerned were all affected to a certain extent. She pointed out that as various policy bureaux were involved, she wondered whether it was appropriate to discuss this issue at the Trade and Industry Panel meetings. The Chairman proposed to explore the suitable arrangements in detail after the meeting.

4. Members agreed to discuss the item on "Update Report by Venture Capital Companies on Applied Research Fund" at the next meeting. The Chairman also invited members to forward the topics they wished to discuss to the Clerk after the meeting.

(Post meeting note: With the concurrence of the Chairman, the item on "Reorganization of Trade and Industry Bureau and its supporting departments" would be discussed at the next meeting. Discussion of the item mentioned in paragraph 4 would be postponed.)

IV. Registration of Copyright Licensing Bodies Regulation

(a) Meeting with deputations

(i) Concern Group of Music Copyright Ordinance (Concern Group)
(LC Paper No. CB(1)1093/99-00(03))

5. Mr Michael LI Hon-shing, representative of the Concern Group, briefed members on the contents of its submission. He said that the Concern Group represented eight industries, namely Chinese restaurant, cinema, restaurant, hotel, hospital and clinic, karaoke, retail and shopping arcade. While the Concern Group was fully supportive of the protection of intellectual property rights, it was however concerned about the inadequate control over the levy of music royalty charges. He pointed out that music copyright organizations in Hong Kong lacked transparency and uniform standards in determining royalty charges, thereby giving rise to charges that might be excessive, duplicated or unreasonable. Meanwhile, the Administration had not established any mechanism to monitor the arrangements for levying royalty charges, leaving the rights and interests of copyright users unprotected.

6. Mr LI advised that despite repeated efforts of the Concern Group to seek assistance, the Administration maintained that music copyrights were private properties and therefore it should not interfere with the determination of royalty

charges. He urged the Government to strike a balance between the protection of intellectual property rights and the rights and interests of users, so as to facilitate the objective and impartial enforcement of the legislation. Pointing out that overseas copyright laws could provide many examples in this regard, Mr LI invited members to take note of the information paper on "Comparison of Music Copyright Legislation" (LC Paper No. CB(1)1123/99-00(01)) tabled at the meeting by the Concern Group. He further pointed out that according to the Registration of Copyright Licensing Bodies Regulation drafted by the Administration, the registration scheme would operate on a voluntary basis only. He queried the effectiveness of such a registration scheme in regulating the operation of copyright organizations. Moreover, he was dissatisfied with the representativeness of the Copyright Tribunal and the absence of clear guidelines on the charging arrangement to the public. He urged the Government to make improvements in this regard.

7. Other representatives of the Concern Group also expressed the following views for members' reference:

- (a) Hong Kong should follow the example of Japan to exempt hotels, restaurants and shopping arcades from paying royalty charges for playing background music.
- (b) Shops or clinics which broadcast television or radio programmes should also be exempted.
- (c) Copyright organizations should not collect royalty charges from cinemas for the music played in the films being shown because the music played had already been paid by the film producers or distributors concerned.
- (d) Copyright organizations should establish a clear, fair and uniform charging standard. For example, when calculating the charges payable by a hotel, the actual occupancy rate instead of the total number of rooms in the hotel should be used as the basis for calculation. The representatives also pointed out that the invoices recently received by a karaoke lounge might reflect that copyright organizations did not have a uniform standard in collecting royalties. The respective amounts printed on the invoices received by the karaoke lounge in October 1998 and March 1999 had a difference of nearly \$30,000. He also provided copies of the invoices (LC Paper No. CB(1)1123/99-00(02)) at the meeting for members' reference. In addition, the representatives opined that copyright organizations should produce proof of their identity as the agents of copyright owners before they could charge the users.

(ii) Composers and Authors Society of Hong Kong Limited (CASH)
(LC Paper No. CB(1)1093/99-00(04))

8. Mr Malcolm BARNETT, Chairman of CASH, advised that CASH was a non-profit-making organization with almost 2 000 local members who were composers, lyric writers and music publishers in Hong Kong. It controlled the rights of its

members in the local music repertoire through deeds of assignment, and administered in Hong Kong the rights in the international music repertoire through reciprocal agreements with its sister societies and agents in 129 territories. Thus it provided collective management in Hong Kong for the rights of public performance and broadcasting in virtually the entire world repertoire of music. He also informed members that CASH had established a comprehensive mechanism in determining the royalty charges different users had to pay. Should the users raise any objections to the charges, CASH would be very willing to negotiate with the parties concerned. He said that CASH had been a staunch supporter of the Copyright Ordinance. Being in favour of the registration scheme for copyright licensing bodies, CASH would also participate actively in the discussion on the regulation during the consultation period. CASH would apply for registration as soon as the regulation was implemented.

(iii) International Federation of the Phonographic Industry (Hong Kong Group) Limited (IFPI)

9. Mr Ricky FUNG Tim-chee, Chief Executive Officer of IFPI, advised that IFPI was mainly responsible for managing the rights of performing phonograms and music videos in public, and collecting royalty charges for such performance. IFPI was different from CASH in that the latter represented the rights and interests of composers and lyric writers. IFPI was aware that, upon the enactment of the Copyright Ordinance, the Government would draw up a voluntary registration scheme for copyright licensing bodies. Such a move was most welcome and IFPI, during the consultation period on the relevant regulation, would advocate for simplifying the various procedures to be observed by licensing bodies, such as allowing the use of the Internet instead of newspaper advertisements for the publication of fees adjustment notice. Such simplification would reduce costs and in turn benefit users, who could enjoy lower charges. Moreover, he informed members that IFPI had published a pamphlet on royalty charges for reference by the public.

10. On the copies of invoices of a karaoke lounge submitted by the representatives of the Concern Group, Ms Pat TSANG, General Manager of Phonographic Performance (South East Asia) Ltd, responded that the karaoke lounge involved in this case had defaulted on royalty payments for two years. IFPI had tried to recover the arrears through the Small Claims Tribunal and sent its staff to the karaoke lounge for investigation. The investigation indicated that the information provided by the karaoke lounge, including the number of seats and telescreens, was inconsistent with the facts. Adjustments on the fees payable were made in the invoice issued in March 1999 accordingly and hence there was no over-charging or inconsistent charging standards. IFPI had notified the person-in-charge of the karaoke lounge of the charging arrangements in writing but no response was received so far. Mr FUNG added that IFPI was very willing to discuss issues on royalty charges with the organizations using musical works in a bid to find a mutually acceptable solution. He opined that resorting to the redress mechanism too readily was not the best way to solve the problem.

- (b) Meeting with the Administration
(LC Paper No. CB(1)1093/99-00(05))

11. The Chairman invited members to raise questions on the subject with the Administration.

Operation of the Registration of Copyright Licensing Bodies Regulation

12. Mr CHEUNG Man-kwong enquired whether the mechanism under the existing legislation was adequate to regulate the operation of copyright licensing bodies as well as providing the public with thorough information on the bodies recognized by the Government. He queried whether the voluntary registration scheme set up under the Copyright Ordinance could provide sufficient protection for the users of musical works.

13. The Acting Deputy Secretary for Trade and Industry (2) (DS/TI(2)(Atg)) advised that the paper provided by the Trade and Industry Bureau aimed at briefing members on the voluntary registration scheme for copyright licensing bodies under the Copyright Ordinance. The Administration considered that a voluntary registration scheme could ensure public access to essential information, such as the scales of royalty charges, thereby enhancing transparency. In addition, the voluntary registration scheme might also provide the registered copyright licensing bodies with official recognition and was consistent with the international practice that no mandatory registration scheme should be imposed on intellectual property rights. Two major copyright organizations, CASH and IFPI, had also indicated earlier at the meeting their readiness to participate in the registration scheme. It was thus evident that the voluntary registration scheme was feasible.

14. DS/TI(2)(Atg) also briefed members on the operation of the registration scheme. Under Section 146 of the Copyright Ordinance, the Director of Intellectual Property was the Registrar of Copyright Licensing Bodies (“Registrar”) who would establish and maintain a register of copyright licensing bodies. Under section 149 of the Ordinance, the Registrar had to be satisfied that the applicant was a fit and proper person prior to approving his application for registration, and that the scales of copyright royalty charges should be made available to the public by exhibiting them in registered offices and places of business conspicuously, and publishing in an English and a Chinese newspaper within two weeks after the issue of the certificate of registration. Section 150 also stated that a registered licensing body which intended to levy royalty charges differing from the scales previously published would have to notify the Registrar at least one month before the new scales came into effect, or otherwise its registration would be cancelled. As regards the proposal to publish on the Internet the information on royalty charges, he said that it could provide another means to enhance transparency in addition to publishing the information in newspapers. He advised that the names of all registered licensing bodies and information on their charges would be made available free of charge for public inspection.

Criteria for determining royalty charges and settling of disputes

15. Mr James TIEN commented that the existing criteria adopted by copyright organizations for determining charges seemed to be unclear. He pointed out that in view of the growing popularity of the Internet, it remained doubtful whether local copyright organizations had the right to collect royalty charges when a user broadcast overseas musical works through the Internet. He opined that for organizations such as clinics, hotels and shopping arcades which did not rely on music to conduct their business activities, the Government might consider following the practice in the USA or Australia to exempt them from paying royalty charges for playing background music or for broadcasting television or radio programmes. Mr CHEUNG Man-kwong shared his view and pointed out that circumstances under which exemptions were granted should be listed out in the legislation. This would cater for the interests of users as well as the protection of intellectual property rights.

16. DS/TI(2)(Atg) pointed out that the Copyright Ordinance had already provided a statutory mechanism to arbitrate royalty disputes through the Copyright Tribunal, which was a quasi-judicial body appointed by the Chief Executive. Under Section 173 of the Copyright Ordinance, the jurisdiction of the Copyright Tribunal included, amongst other things, determining disputes arising from licensing by the copyright licensing bodies under the licensing schemes. This was in line with the practices in other jurisdictions such as Australia, Canada and the UK. As regards the Fairness in Music Licensing Act promulgated in 1998 in the USA which exempted the payment of royalty charges, it was criticized by the European Union for being inconsistent with the Agreement on Trade-related Aspects of Intellectual Property Rights of the World Trade Organisation (the TRIPS Agreement). As there had not been an end to such controversy, it was really inappropriate for Hong Kong to follow hastily the US practice lest the TRIPS Agreement be breached. Regarding the exemption arrangements in Australia, these were just provided voluntarily by copyright organizations, but not in accordance with any statutory provisions.

17. The Deputy Director of Intellectual Property (DD/IP) added that Hong Kong had to fulfil its international obligations to protect the rights of copyright owners in respect of the duplication, distribution and public performance of their works. Although exemption of royalty charges could be granted under certain circumstances in the international context, it was rather difficult to lay down a set of uniform criteria. As such, the international practice was to make provisions in the legislation whereby exemption would be granted as long as the copyright owner did not have the normal exploitation of his work affected nor his legitimate interests unreasonably prejudiced. Section 37(3) of the Copyright Ordinance was made with reference to the above-mentioned provisions. As regards the determination of reasonable royalty charges, since a uniform criteria for practical application could not be provided, the Copyright Tribunal had been set up under the legislation to arbitrate royalty disputes.

Operation of the Copyright Tribunal

18. In response to Mr James TIEN's concern about the representativeness of the Copyright Tribunal, DS/TI(2)(Atg) advised that in order to ensure the impartiality of the Copyright Tribunal, the Administration had appointed highly qualified persons

from a wide spectrum of the community as its members. Section 169 of the Copyright Ordinance stipulated that the Copyright Tribunal should consist of a Chairman, a Deputy Chairman and seven members. It further stipulated that the Chairman and Deputy Chairman must be qualified for appointments as District Court judges (i.e. no less than five years experience' as a barrister or solicitor). As to the concern expressed by the Concern Group over the absence of clear guidelines, he pointed out that the Tribunal had to exercise its jurisdiction in accordance with the rules and practices of a civil court and its members should declare any possible conflicts of interest. He reiterated that as the Copyright Tribunal was established to arbitrate royalty disputes, an appropriate mechanism of check and balance had already been provided for under the law to prevent over-charging by copyright licensing bodies.

19. Mr James TIEN enquired about the number of cases handled by the Copyright Tribunal since the implementation of the Copyright Ordinance in 1997. The Assistant Director of Intellectual Property (Development) responded that so far a total of five cases had been referred to the Tribunal but owing to the complexity of the cases, the hearings had yet to be held.

20. As the Copyright Tribunal had not formally heard any cases on copyright disputes since its establishment almost three years ago, Mr James TIEN doubted whether the Tribunal could serve the intended purpose of functioning as an arbitration body. Expressing similar concern, Mr CHEUNG Man-kwong commented that taking into account the considerable manpower and financial resources involved in the legal proceedings, it might not be within the affordability of the complainant organization to bring their disputes to the Copyright Tribunal. DD/IP explained that in consideration of the substantial amount of money involved in all the five referral cases, the complainant organizations and the copyright organizations concerned acted with prudence. He advised that as the adjudication of each case would become case law for reference of the Copyright Tribunal in future, all the parties concerned were acting cautiously at this stage, doing their best in gathering information and handling procedural matters.

21. Mr MA Fung-kwok declared interest as a member of the Copyright Tribunal and a former copyright owner and user. He pointed out that if complainant organizations wanted to seek assistance from the Copyright Tribunal, they would probably have to deploy considerable manpower and financial resources which ordinary small and medium enterprises might not be able to afford. According to his personal experience, if hearings were to be conducted, the parties concerned had to gather much information and seek assistance from the legal profession. The costs incurred would be substantial. He questioned whether the existing mechanism was fair to the organizations which could not afford the litigation fees. Mr Howard YOUNG also declared his interest that he had just been appointed a member of the Copyright Tribunal. He pointed out that high litigation fees was possibly a major reason why the Tribunal had not heard any cases since its establishment. In addition, only a few lawyers were familiar with the Copyright Ordinance and most of them had already been providing service to the copyright organizations, thus making it even more difficult for copyright users to seek legal advice.

22. DS/TI(2)(Atg) advised that given the complexity of the copyright issue, the Administration had exercised much caution in appointing members of the Copyright Tribunal, hoping to choose the right persons who were representative and authoritative enough to undertake these important responsibilities. He reiterated that the Chairman and Deputy Chairman of the Tribunal were well-experienced legal professionals who should be able to make impartial and appropriate judgements in the determination of royalty charges.

23. In response to members' proposal of setting up a task force or an advisory body to handle royalty disputes, DS/TI(2)(Atg) advised that the Copyright Tribunal was already a statutory quasi-judicial body established for this purpose. It would not be necessary to abandon this formal statutory channel and set up another advisory body.

Bargaining power of copyright users

24. Regarding the determination of royalty charges, Mrs Selina CHOW advised that the crux of the problem was the respective bargaining power of users and copyright organizations. She questioned the ability of the representatives of the Concern Group to bargain with copyright organizations in the process of determining the charges. Mr MA Fung-kwok also expressed concern over the determination of charges and the communication between copyright organizations and users.

25. The representatives of the Concern Group advised that copyright user organizations generally lacked bargaining power and could only choose between paying the fees determined by copyright organizations or not playing the copyright works at all. A representative pointed out that copyright organizations generally offered certain discount according to their charging criteria. If a user did not accept the scales of royalty charges, the discount would be cancelled, resulting in higher royalty charges. Moreover, meeting with CASH to negotiate on royalty charges would not be fruitful. According to the experience of the hotel industry, they had made many futile attempts to request for pegging the charging scale to occupancy rate. Since most of the music rights were controlled by copyright organizations, users had no alternatives but to pay the royalty charges as demanded. Although the Copyright Tribunal could adjudicate royalty disputes, the manpower and financial resources involved in this mechanism were in fact beyond the means of ordinary user organizations. The representative of the karaoke industry also pointed out that the "exclusive karaoke right" emerging recently had made it even more difficult for the small and medium karaoke lounges which could not afford the high prices of the right to run their business.

26. Mr Ricky FUNG Tim-chee advised that in determining the charging scale, IFPI had drawn reference from the royalty charges in places with a living standard comparable to that of Hong Kong. He pointed out that IFPI had been providing a discount of up to 20% for user organizations. As regards the basis for calculating the charges, this could be calculated according to turnover, the number of business tools (e.g. television sets) or the number of people in the community they could reach, having regard to the individual business situations and needs. Concerning the proposal of the representative of the hotel industry to peg the charges to occupancy rate, he responded that IFPI only levied royalty charges for the music played in hotel

lobbies and other common areas. No charges were made separately for the music played in hotel rooms. Apart from IFPI, there were several copyright organizations representing the interests of other music copyright owners. Users were free to choose any music provided by different organizations. In his view, it was most desirable for copyright users and copyright organizations to reach an agreement on charges through negotiations. However, should there be any disputes, seeking the Copyright Tribunal's arbitration was a suitable and feasible means.

27. Mr Malcolm BARNETT advised that the commercial value of the music to the user organizations and the number of audience were the main criteria adopted by CASH in determining the charges. During the process, the staff of CASH would approach the user organizations to assess their situations in respect of the use of music and discuss with the persons-in-charge on the charging arrangements. Although CASH enjoyed a certain level of "monopoly" in controlling the intellectual property rights of composers and lyric writers, the existing arrangement was still a more efficient practice as compared to other royalty charging schemes adopted in other parts of the world. If the copyrights of different works were controlled by different organizations, the coordination problem could not be easily resolved. He commented that the establishment of the Copyright Tribunal was to provide a statutory channel for arbitrating royalty disputes as well as achieving a balance between the rights and interests of users and copyright organizations.

28. The Chairman advised that the main objective of the discussion was to enable members to better understand the operation of the charging schemes and the problems involved and to provide comments on the registration scheme for copyright licensing bodies proposed by the Government. Members therefore were not advised to assume the role of an arbitrator for the disputes between users and copyright organizations at the meeting. Members noted that the Administration intended to consult the parties concerned in the industry on 7 March 2000 on the proposal of establishing a registration scheme for copyright licensing bodies. The consultation exercise would complete within one month and the results would be submitted to the Legislative Council for consideration as soon as possible.

V. Review of the Rice Control Scheme (LC Paper No. CB(1)1093/99-00(06))

29. The Director-General of Trade (DG/T) briefed members on the contents of the information paper. The Rice Control Scheme (the Scheme) was introduced in 1955 when rice supply was a major concern of the community. The objectives of the Scheme were to ensure a regular and adequate supply of rice and to provide a reserve stock to cater for emergencies or any short term shortages of supplies. Following a review of the scheme in 1996, the Trade Department implemented several measures including introducing an optional quota scheme in October 1997 which enabled stockholders to adjust their import level below or above their allocated level in accordance with the market demand with a view to establishing a more flexible mechanism for the rice trade. These measures had encouraged competition and had provided more flexibility especially for small stockholders. Moreover, the Administration had also consulted members on the continued need for a reserve stock

at the Panel meetings in April 1996 and January 1998. Members generally supported the retention of a rice reserve for emergency purpose since rice was the staple diet in Hong Kong.

30. However, in their recent discussions on rice control measures, members of the Rice Advisory Committee (RAC) had divided views on the retention of a reserve stock in the long run. Some felt that the reserve requirement should be scrapped, taking into account the reduced reliance of the local population on rice as a staple diet, as evident by the trend of decreasing per capita consumption over the past few decades. On the other hand, those who advocated the continued need for keeping a reserve were concerned that the local population still had a strong psychological attachment to rice and hence the reserve stock should be maintained at a certain level for emergency needs. There was no consensus among RAC members at this stage as to whether the reserve stock requirement should be lifted when the trade was fully liberalized. RAC members, however, unanimously agreed to reduce the level of reserve stock in phases from the existing 45-day to 21-day consumption by June 2001. In addition, RAC also agreed to adopt a number of progressive measures to achieve the liberalization of the rice trade by January 2003.

The possibility of monopolization upon liberalization of the rice trade

31. Mr HUI Cheung-ching expressed concern over the possibility of monopolization of the import, wholesale and retail of rice by a few major supermarket chains following the liberalization of the rice trade. This might result in an increase rather than a decrease in rice prices despite reduction in costs, thereby jeopardising the interest of the consumers. Mr CHEUNG Man-kwong shared the same concern and urged the Government to consider the need for introducing anti-trust law to in this regard. Dr LUI Ming-wah also asked the Government about ways to keep the number of retailers under control to prevent monopoly.

32. DG/T responded that the progressive liberalization of the rice market aimed at providing opportunities for interested parties to join the rice trade so that free competition would be encouraged. Although it was uncertain whether this would give rise to monopolization, the Government would closely monitor the development of the trade in the course of liberalization. He believed that if the rice trade could generate unreasonably high profits, new investors would be attracted to join the competition under the free market mechanism. On the proposals of introducing anti-trust law and keeping the number of retailers under control, he pointed out that rice was just one type of the various foodstuffs consumed by the people of Hong Kong. Under the principle of free trade, the Government had never exercised any control on the retail of other foodstuffs and rice should not be dealt with separately. Moreover, further liberalization of the rice trade aimed at creating a more open market and providing equitable treatment to all market participants. The Government should avoid interfering with the market and let the market achieve an equilibrium by itself.

33. Mr NG Leung-sing was concerned whether there was any detailed assessment on the possible impact of liberalizing control on the rice trade, including the possibility of monopolization. In addition, he also sought information from the Government on the enforcement of the existing rice control scheme. DG/T advised that as compared

with the figure in 1997, the price of the rice imported from Thailand had decreased by 15% in 1999. It was estimated that with the liberalization of the rice trade, the importers' cost would be lowered due to the decrease in the level of reserve stock. Coupled with the increased competition introduced to the market, there would be a margin for price reduction. As to the possibility of monopolization, he reiterated that under the principle of free trade, the Government would not exercise control on the retail of any individual commodity. He believed that with the free play of market forces, unreasonably high profits would be regulated automatically. Under the existing rice control mechanism, importers were subject to stringent control regarding the level of reserve stock. If an importer failed to import adequate reserve stock, he/she would be prohibited from making any transactions with the wholesalers.

34. Mr Kenneth TING supported in principle the proposals set out in the information paper. He remarked that the concern expressed by some members over the possible monopolization of the rice trade after its liberalization were unnecessary. Should the trade generate substantial profits, investors would naturally be interested in taking a share. On the contrary, for those who were not interested in joining the rice trade, they would not be forced to do so even with the introduction of anti-trust law.

The level of reserve stock of rice

35. Mr Fred LI considered the proposal to reduce the level of reserve stock to 21-day consumption by 2001 too conservative. With well-developed and convenient transportation, the level of reserve stock could be further reduced to 7-day or 8-day consumption. This would help reduce the cost of maintaining a reserve stock, resulting in further reduction in the prices of rice. Mr Kenneth TING shared his view and suggested that the Government should consider lowering the level to 10-day consumption. Dr LUI Ming-wah also opined that as the present social environment of Hong Kong was very different from 50 years ago, it was unnecessary to maintain the control on the reserve stock of rice. The Chairman advised that the Democratic Alliance for the Betterment of Hong Kong agreed that the level of reserve stock should be lowered by phases. In the long run, consideration could be given to the removal of the control so as to further reduce the operating costs of the rice trade.

36. DG/T advised that as set out in the information paper, the level of reserve stock rested with the psychological attachment of the community to rice were correlated. There was no scientific method to arrive at the appropriate level. On the basis of free trade policy, the Government was in favour of lifting the reserve stock requirement. However, members of RAC failed to reach a consensus on lifting the reserve stock requirement after heated debates. Moreover, Panel members expressed general support to the retention of the requirement at the meetings of the LegCo Panel on Trade and Industry in 1996 and 1998. The Government, therefore, decided to continue with the practice. He advised that the proposed reduction of the level of reserve stock by phases from the existing 45-day to 21-day resumption by June 2001 would already reduce importers' storage cost. He promised that the Government would make continuous efforts in reviewing and monitoring the level of reserve stock. Subject to Members' support and the consensus of RAC, the reserve stock requirement could be further relaxed or even lifted. He also informed members that in addition to members from the rice trade, the majority of RAC members were academics or

professionals of different backgrounds.

37. Mrs Selina CHOW enquired about the arrangement of allowing the registered importers instead of DG/T to decide on the level of rice imports set out in paragraph 10(c) of the information paper. DG/T explained that under the existing arrangement, the level of rice import was subject to more stringent control, with DG/T to decide on the level of rice imported by each importer and the allocation of quotas to ensure that the aggregated level of reserve stock maintained by all importers was sufficient for 45-day consumption. Paragraph 10(c) of the information paper just explained the future arrangement. In order to provide more flexibility to importers in respect of the level of rice imported, each importer could decide by himself the level of rice he/she planned to import. DG/T would then allocate the reserve stock level in accordance with the proportion of the amount of rice individual importers planned to import in the aggregated level of import. He advised that pending the reduction of the level of reserve stock, the new arrangement would allow importers to have more flexibility in deciding on the level of imported rice the market could sustain in addition to the required reserve stock. However, this flexible arrangement would not affect the requirement that the aggregated level of reserve stock should meet the established level of consumption.

Pace of liberalization of the rice trade

38. Mr Fred LI remarked that, given the subject of liberalization of the rice trade had been discussed by the Legislative Council for several years since 1996, the present pace proposed by the government to fully liberalize the rice trade by 2003 was considered too slow. He criticized the Government's proposal of inviting all interested parties in July 2002 to register as rice importers according to the revised registration criteria as set out in paragraphs 10(a) and (b) as too conservative.

39. DG/T advised that members of the trade had made valuable contributions towards the stable supply of rice for several decades since the introduction of the Rice Control Scheme in 1955. As the Scheme had been operating for long, reforms had to be introduced gradually to facilitate a better adaptation by the market. He pointed out that the proposed removal of the cross-ownership restriction on importers and wholesalers in January 2001 was in fact a great step towards the liberalization of the rice market. There was a need to allow reasonable time for the Government to observe how the market would adapt to the changes. He advised that at present, the registered rice importers had to fulfill certain requirements on the ratio of local capital, finance and the amount of capital involved. The removal of cross-ownership restriction on existing importers and wholesalers from January 2001 onwards and their subsequent registration in 2002 aimed at enabling the existing rice traders to prepare themselves for the liberalization of the rice trade in January 2003 in an orderly manner. New comers in the market would not be affected by the timetable as they could only register when the rice trade was fully liberalized in January 2003.

40. Mr Kenneth TING supported the timetable on the liberalization of the rice trade in January 2003 as set out in the paper. He considered it appropriate for the Government to adopt a gradual approach in opening up the market because it should not be too hasty in making changes to a mechanism which had been in operation for a

number of decades.

41. The Chairman said that with the competition brought about by the liberalization of the rice trade, operators who were reluctant to modernize their trade practice would be driven out of the market. This would in turn help reform and develop the trade. He opined that this was beneficial to the trade and thus urged the Government to discuss with RAC members with a view to speeding up the process of liberalization.

VI. Any other business

42. There being no other business, the meeting ended at 5:00 pm.

Legislative Council Secretariat
5 May 2000