

立法會
Legislative Council

LC Paper No. CB(1)1971/99-00

(These minutes have been seen by
the Administration and cleared by
the Chairman)

Ref: CB1/PL/TI/1

Panel on Trade and Industry

Minutes of meeting
held on Tuesday, 9 May 2000, at 2:30 pm
in the Chamber of the Legislative Council Building

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
Prof Hon NG Ching-fai
Hon Mrs Selina CHOW LIANG Shuk-ye, JP
Hon MA Fung-kwok
Hon CHEUNG Man-kwong
Hon HUI Cheung-ching
Hon SIN Chung-kai

Members absent : Hon CHAN Kwok-keung
Hon Bernard CHAN
Hon Mrs Sophie LEUNG LAU Yau-fun, JP
Dr Hon Philip WONG Yu-hong

Public officers : **For Item IV**
Attending

Mr Bobby CHENG
Principal Assistant Secretary for Trade and Industry (B)

Ms Annie CHOI
Assistant Director-General of Industry (Technology
Development)

For Item V

Mr Bobby CHENG
Principal Assistant Secretary for Trade and Industry (B)

Ms Annie CHOI
Assistant Director-General of Industry (Technology
Development)

For Item VI

Miss Yvonne CHOI
Deputy Secretary for Trade and Industry (1)

Mr Nicholas CHAN
Assistant Secretary for Trade and Industry (C1)

**Attendance by
Invitation** : **For Item IV**

Walden Technology Management (HK) Ltd

Mr K O CHIA
Executive Director

AsiaTech Ventures Ltd

Mr Hanson CHEAH
Executive Director

Softech Investment Management Ltd

Mr Johnny CHAN
Executive Director

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

**Staff in
Attendance** : Ms Alice AU
Senior Assistant Secretary (1)5

Action

**I. Confirmation of minutes of previous meeting
(LC Paper No. CB(1)1511/99-00)**

The minutes of the meeting held on 6 March 2000 were confirmed.

II. Information paper issued since last meeting

(LC Paper No. CB(1)1295/99-00 - Report on the progress of operation of the Special Finance Scheme for Small and Medium Enterprises (as at 23 March 2000);

LC Paper No. CB(1)1525/99-00 - Information paper on Pilot Mentorship Programme for Small and Medium Enterprises; and

LC Paper No. CB(1)1532/99-00 - Report on the progress of operation of the Special Finance Scheme for Small and Medium Enterprises (as at 4 May 2000))

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

III. Date of the next meeting and items for discussion

(LC Paper No. CB(1)1512/99-00(01) - List of outstanding items for discussion; and

LC Paper No. CB(1)1512/99-00(02) - List of follow-up actions)

3. At the suggestion of the Chairman, members agreed that the next regular Panel meeting originally scheduled for 5 June 2000 would be held on Thursday, 8 June 2000 at 2:30 pm.

4. Regarding the issue raised by Mr MA Fung-kwok at the last meeting concerning a complaint lodged by local exhibitors against the Hong Kong Trade Development Council (HKTDC), the Chairman drew members' attention to a position paper from the Exhibition and Convention Organisers' and Suppliers' Association (ECOSA) on the matter, which was tabled at the meeting. The Chairman also proposed that the item on "prevention of copyright piracy" be further discussed by the Panel at the next meeting, with special emphasis on piracy activities on the Internet and pirated recordable compact discs. Dr LUI Ming-wah suggested that the Panel should follow up on the progress of the proposal to provide a convention and exhibition centre at the Hong Kong International Airport (HKIA). Mrs Selina CHOW advised that as far as she knew, representatives of the Airport Authority had been invited to attend the next meeting of the Panel on Economics Services (ES Panel) to brief members on the latest development of the HKIA, which might also involve the relevant plan. In this connection, the Chairman requested the Clerk to follow up the matter with the ES Panel and make arrangements to circulate the relevant information paper(s) to members of this Panel for reference so that interested members could attend the said meeting.

Clerk

(*Post-meeting note:* (a) The letter tabled by Mr MA Fung-kwok and the position paper from ECOSA were issued to members vide LC Paper No. CB(1)1563/99-00 on 10 May 2000; and (b) Members of the Trade and Industry Panel were invited to attend the ES Panel meeting to be held on 22 May 2000 to join the discussion on the agenda item “An update on Hong Kong International Airport”.)

5. Members agreed to discuss the following items at the next meeting scheduled for 8 June 2000:

- (a) policy and charging arrangement of the HKTDC in the organization of trade exhibitions; and
- (b) prevention of copyright piracy.

6. The Chairman also reminded members that arising out of the discussions of the Bills Committee on Trade Marks Bill, a special meeting would be held on 18 May 2000 to discuss the labelling requirements for consumer goods and all other non-Panel Members would be invited to attend.

IV. Applied Research Fund

(LC Paper No. CB(1)1512/99-00(03) - Information paper provided by the Administration)

7. At the invitation of the Chairman, the Principal Assistant Secretary for Trade and Industry (B) (PAS/TI(B)) briefed members on the latest development of the Applied Research Fund (ARF), the details of which were set out in the information paper provided by the Administration (LC Paper No. CB(1)1512/99-00(03)).

Effectiveness of ARF

8. Referring to paragraph 8 of the paper which stated that initial successes had already been gained by some investee companies in the development of their businesses, Mr HUI Cheung-ching remarked that the results were quite encouraging. He was however concerned about the long term plans for these successful companies and asked whether there were any unsuccessful investment cases and the amount of funds involved. The Assistant Director-General of Industry (Technology Development) (ADG/I(TD)) replied that there had been no such cases so far. As the fund management services had only been contracted out recently, the investee companies still needed some time to build up their businesses. However, quite a number of companies had in fact achieved considerable progress, for instance, in developing overseas markets. She further advised that in addition to making investment decisions, the fund managers would also consider the future development of the investee companies such as the timing of listing or reselling to other companies, with a view to capitalizing the returns. All returns would be credited to the Applied Research Council (ARC) for re-investing in other technology companies.

9. Referring to the acquisition of an investee company by a listed company as mentioned in paragraph 8 of the paper, Mr James TIEN enquired about the investment returns concerned. Mr Hanson CHEAH of AsiaTech Ventures Ltd replied that the investee company was QuotePower Information Ltd which received an approved investment funding of \$8 million and it was subsequently acquired by ABC Communications (Holdings) Ltd (ABC) through conversion of shares. As calculated against the current price of ABC shares, the value of stocks held was worth about \$11 million.

10. Prof NG Ching-fai pointed out that most of the 14 approved investment projects were in the area of information technology (IT). The investment decisions made by the fund managers might be too conservative, and other focus areas where technology ventures were needed might be overlooked, such as in biotechnology. ADG/I(TD) replied that about 80% of the proposals received by the three fund managers were IT projects, reflecting the relatively rapid development of this field in Hong Kong. Sharing this observation, Mr Hanson CHEAH said that to a certain extent, the number of applications from a particular technology area hinged on the overall development of that industry in Hong Kong. Many applications were from the electronics industry, which accounted for 15% of the applications. The number of projects in the areas of biotechnology and environmental technology were very few, with less than 10 applications received since 1999.

11. Dr LUI Ming-wah queried whether the approval criteria adopted by the fund managers were too strict, resulting in only 14 projects being funded. In response, Mr Hanson CHEAH stated that the three fund managers had altogether received more than 1 400 proposals and had invested in 14 of them. The average success rate was 1% and this figure was broadly in line with that of other venture capital firms which was 1% to 2%. As regards the manner of investment, all the fund managers had been investing through equity participation which involved the exchange of investment funds for shares of the investee companies. When the investee companies reached a certain stage of development, they would be listed on the stock market and the shares held would either be sold in the open market or to other companies.

12. Concerning about investment in the research on hardware development which was most urgently required in Hong Kong, Dr LUI also pointed out that the majority of the 14 investee companies were involved in software industry, with NSM Technology Ltd being the only one engaging in electronics hardware business. He requested the Administration to illustrate the terms of co-operation between the fund manager and an investee company with this example. Mr Hanson CHEAH advised that the company was an original design manufacturer of telecom equipment, whose major business was to design and manufacture domestic digital mobile phones for Hong Kong and European companies. However, as sensitive commercial information was involved, he was not in a position to disclose the number of shares held. Depending on the situation of individual investee companies, such as their stage of development, assets, management and the investment agreement, the percentage of shares owned by the fund managers would vary. Mr Hanson CHEAH emphasized that under the established criteria, all local

companies could apply for the fund. A large proportion of the investee companies was involved in software business mainly because their numbers were far greater than hardware companies in Hong Kong and their capital requirements were generally not too high. As hardware development was a capital intensive business, not too many companies could afford to do so.

13. The Chairman enquired about the employment of professionals by the 14 investee companies. In reply, Mr Hanson CHEAH advised that according to rough estimation, the investee companies had about 50 to 100 employees, about 75% of whom were professionals. Mr Johnny CHAN of Softech Investment Management Ltd supplemented that as his company was entrusted to manage the fund starting from March 2000, no investment had yet been made. However, among the 12 investment proposals being considered, the number of employees employed by the companies concerned ranged from five to seven in the least to around 40 to 50 at most.

14. Given that enterprises which had been established for several years with as many as 100 employees were also receiving support, Dr LUI Ming-wah questioned whether ARF's aim of supporting technology ventures undertaken by new companies in the form of a Government-owned venture capital fund would be defeated. In response, ADG/I(TD) explained that under the requirement stated in paragraph 7 of the paper concerning start-ups (i.e. companies established for not more than three years with less than 50 employees), the fund managers would have to invest in at least five start-ups during the term of the management. Mr Hanson CHEAH also clarified that the figures he had just quoted were the current number of employees of the investee companies, rather than the number of employees at the time of initial investment. Due to rapid development, the number of employees of some companies had increased from just a handful to over 100 within a short time.

Monitoring the work of the venture capital companies

15. Mr CHEUNG Man-kwong and Mr Kenneth TING were concerned about the reduced amount of investment fund managed by HSBC Private Equity Management Ltd (HSBC). ADG/I(TD) explained that due to legal considerations, she was not in a position to disclose the reasons for the arrangement. Under the agreement reached by both parties, the amount entrusted for HSBC's management would be reduced from \$300 million to \$50 million and the company would still manage an existing investment project with an approved investment of \$46.5 million. The project had been performing well so far and had already brought in some returns. As for the outstanding amount, it would be used as HSBC's management fee for the first two to three years.

16. Pointing out that Walden Technology Management (HK) Ltd had only invested 20% of its entrusted fund (i.e. \$60 million out of \$300 million) since 1998, Mr CHEUNG Man-kwong questioned whether the progress of investment was satisfactory. In response, ADG/I(TD) advised that under the management agreement concluded by ARC and individual venture capital companies, at least

50% of the entrusted fund would have to be invested within three years in order to ensure that the fund managers would endeavour to identify investment opportunities for the fund. As the three-year period had not yet expired, it was still too early to assess the company's investment progress. However, close liaison had been maintained with the company to keep track of its progress in screening applications.

17. As a related issue, Mr CHEUNG Man-kwong asked whether the management fees charged by the venture capital companies were pegged to their investment returns and the amount of funds under their management. ADG/I(TD) replied that according to the terms of the contract, the companies would charge an annual management fee based on the amount of funds under their management and the rate was broadly in line with that in the industry. Moreover, if the investee companies yielded any commercial returns, the fund managers could also share the profits.

18. Mr CHEUNG Man-kwong remarked that the above situation seemed to reflect certain defects in the system. On the one hand, the fund managers could still charge a fee for the entire amount entrusted to their management even if only a small proportion of that amount had been invested. On the other hand, if the fund managers made hasty investment decisions, even though the chance of obtaining a return might be reduced as a result, they were not required to bear any risk in the event of a loss. In response, ADG/I(TD) pointed out that the management fees charged by the fund managers covered many aspects of work, such as answering enquiries, examining proposed business projects and approving the applications on the basis of commercial considerations. She added that as pointed out by Mr CHEUNG, the sharing of profits would be affected by both the amount invested and the making of right investment decisions. With such conditions and the investment period requirement, it was believed that a proper balance could be struck between good investment progress and prudent decisions. It was most important to ensure that proper investment decisions were made by the fund managers and quality companies were selected.

19. In this connection, Mr CHEUNG Man-kwong requested the Administration to consider requiring the fund managers to invest the entire amount entrusted to their management, otherwise the objective of establishing ARF would never be achieved and public money spent on hiring the fund managers would also be wasted. Moreover, he opined that as the fund managers could share the profits gained, they should undertake certain risks. In order to facilitate members' understanding of the effectiveness of the operation of the fund, the Administration should provide information on the returns of the investments made. In response, ADG/I(TD) informed members that relevant information would be made public. However, as the management service had been contracted out for just 18 months, most of the business projects were still at the development stage and so far, returns had only been gained in one project. She added that the element of risk-taking had in fact been included in the profit sharing mechanism. If an investment project of a certain fund manager had incurred a loss, the amount would be recovered from the next profit-yielding project under its management before the actual amount of profits to be shared was calculated. As this arrangement would directly affect the profits to be shared by the fund managers, incentives had already been provided for the fund

managers to make sensible decisions.

20. The Chairman remarked that the system had achieved a certain level of checks and balances through economic means as the sharing of profits was the source of income that the fund managers were most concerned about. In comparison, the management fees they charged were quite insignificant. He stressed that the Administration should ensure that the system could prevent the fund managers from making hasty investments on the one hand and encourage investments on projects with returns on the other.

V. Innovation and Technology Fund

(LC Paper No. CB(1)1512/99-00(04) - Information paper provided by the Administration)

21. PAS/TI(B) invited members to note the operation and the latest position of the Innovation and Technology Fund (ITF) as set out in the information paper provided by the Administration (LC Paper No. CB(1)1512/99-00(04)).

Effectiveness of ITF

22. Mr CHEUNG Man-kwong took note of the overwhelming response to ITF and that so far a total of 85 projects had been recommended or approved under the four programmes of ITF. However, he expressed grave concern about the criteria for evaluating the returns and economic benefits of the disbursements. Mr CHEUNG said that although the Administration took the view that “given the diverse nature of projects, it would not be feasible or desirable to devise a single set of evaluation criteria for all projects”, evaluation criteria for projects of different categories were indeed necessary so as to ensure that both the public and the Government could make an objective evaluation on the proper use of public money and the effectiveness of the fund.

23. ADG/I(TD) replied that if approval was granted to all 85 projects, the total amount of disbursements would be around \$200 million. Sharing Mr CHEUNG Man-kwong's concern, she pointed out that an objective evaluation on the effectiveness of the funded projects would be made through different means. On the one hand, applicants would be required to provide, where possible, measurable objectives of the proposed projects when lodging their applications so as to facilitate vetting and follow-up work. These objectives might include the number of firms that would likely adopt the technology concerned or the expected number of participants at a funded event. On the other hand, the vetting committees comprising academics and trade members would also consider whether such objectives were indeed practical when assessing the applications. When the funded projects were being undertaken, their progress would be monitored and mid-term evaluation would be carried out. Further funding would only be disbursed when pre-set milestones had been achieved. Upon completion of the projects, the measurable objectives would be used as performance yardsticks. She assured members that great importance had been attached to performance evaluation.

Mr CHEUNG Man-kwong agreed that mid-term evaluation should be carried out to ensure that funds were granted in a prudent manner.

24. Mr James TIEN was concerned that the existing system might lead to abuse, resulting in real benefits gained by universities participating in the funded projects, instead of the local industry. For instance, a university wishing to undertake a certain project might invite private companies to collaborate and apply for ITF, instead of applying to the University Grants Committee (UGC) for funds. Mr TIEN opined that such a university-led collaboration approach might have defeated the purpose of ITF.

25. In response, ADG/I(TD) provided the following data for members' information:

Name of Programme	Nature of Participating Organizations	Amount Recommended/ Approved (million \$)
Innovation and Technology Support Programme (ITSP)	Universities, industrial and trade associations, and industry support organisations	150
University-Industry Collaboration Programme (UICP)	Private companies	34
General Support Programme (GSP)	Universities, industrial and trade associations, and industry support organizations	14
Small Entrepreneur Research Assistance Programme (SERAP)	Private companies	9

She supplemented that among the 85 recommended/approved projects, 36 were initiated by private companies while the remaining 49 projects were initiated by universities, industrial and trade associations, and industry support organizations. In fact, a considerable number of projects were proposed by trade associations.

26. Referring to the above figures, Mr TIEN enquired whether the total sum of \$150 million recommended under ITSP was mainly granted to projects initiated by universities. ADG/I(TD) replied that many projects under the programme were initiated by trade associations. In order to ensure that the technology under research could find commercial applications, the projects initiated by universities

Admin. were required to be sponsored by more than one private company with a view to fostering a closer commercial tie. At Mr TIEN's request, ADG/I(TD) agreed to provide supplementary information after the meeting on the breakdown of the 49 projects under ITSP and GSP by the nature of participating organizations and by the funding support approved.

(Post-meeting note: The requested information was issued to members vide LC Paper No. CB(1)1605/99-00 on 16 May 2000.)

27. Sharing Mr TIEN's concern, Dr LUI Ming-wah pointed out that except SERAP which provided support for private companies to conduct research on their own, all the remaining three programmes required the participation of universities. He remarked that with the establishment of the \$5 billion ITF, the Government was aiming at supporting the work in the areas of innovation and technology. However, judging from the results so far, ITF might not be able to provide any concrete assistance to the industrial and commercial sectors in Hong Kong as most of the funding support was given to researches carried out by the universities. The costs of undertaking such projects would be very high and a long time would be taken for the commercialization of the technology under research and its introduction to the market. Dr LUI was concerned that under such circumstances, the ITF could not bring about its intended social benefits. He suggested that the Administration should reconsider the whole funding arrangement in terms of policy and resource allocation with reference to overseas practices, such as by offering direct support to private companies for research and development work so as to expedite the introduction of new products to the market, which would ultimately benefit the local industrial and commercial enterprises.

28. ADG/I(TD) stated that in consideration of similar comments expressed by Members on the Industrial Support Fund (ISF) previously, four programmes had been established under ITF, two of which were dedicated to providing support to research work conducted by private companies. As the projects under these two programmes would invariably involve commercial elements and most of the time, comprehensive business plans would have been devised when the companies lodged their applications, it was highly likely that the technology under research would be applied in commercial products. Since its introduction in November 1999, UICP was well-received by local private companies. As illustrated by the overwhelming response, UICP could help solve the problem of shortage in expertise and know-how faced by local companies in conducting researches.

29. Pointing out that universities were mostly engaged in development and not research work, and such work would in fact be carried by many local companies as well, Dr LUI opined that the Administration did not understand the situation of Hong Kong's industry. In this respect, ADG/I(TD) advised that as universities could provide more advanced technology and know-how, the collaboration of private companies and universities in conducting research and development work would help them bring the best out of each other.

30. As regards SERAP, Dr LUI stated that the programme was targeted at small-scale start-up companies which were in urgent need of capital to carry out research and development work. In order to provide these companies with more practical assistance, he suggested that consideration should be given to reimbursing the investee companies with the expenses incurred from research and development work conducted within a certain period prior to approval of their applications. While acknowledging Dr LUI's concern, ADG/I(TD) explained that certain restrictions were required for the programme so that all applications could be evaluated fairly. As no information would be available for assessing whether the funds had been used properly, the expenses incurred prior to approval of a project would not be reimbursed to the investee companies.

31. ADG/I(TD) stressed that ITF had been operating for just six months and only initial response was seen at present. The Administration would continue to monitor the operation of ITF. Moreover, during the comprehensive triennial review of ITF, the long-term effectiveness and economic benefits of individual programmes would be assessed. She assured members that when the review was conducted, views and suggestions made by members would be considered and necessary adjustments to the assessment criteria would also be examined.

32. Following up on the Administration's reply, Dr LUI stated that as research work would have certain results in one or two years and given the rapid pace of technological advancement, the Administration should consider conducting the review earlier. ADG/I(TD) replied that when funding approval was sought from the Finance Committee for the establishment of ITF, the Administration had undertaken to conduct a comprehensive review every three years. However, it was not an absolute requirement. After considering such factors as actual demand and changes in the society, the review could be conducted earlier or a new programme might be introduced. In any case, the Panel would be consulted.

33. While welcoming the assistance provided by the teaching staff of universities in conducting technological researches for the industry, Mr James TIEN said that problems might arise if the teaching staff became employees of the private companies concerned, thereby affecting their teaching duties. In response, ADG/I(TD) advised that as the administration of universities fell outside the purview of the Industry Department, she was not in a position to make any comment. However, as far as she knew, teaching staff of universities would have responsibilities both in teaching and conducting researches and they would generally reserve some time for research work. In overseas countries, university professors might take a long leave for one or two years to assist private companies in developing technology. As to whether the teaching staff would be allowed to work for private companies, she believed that such decisions would be made by individual universities taking into account their own administration policies as well as their teaching and research needs. In this connection, both the Chairman and Mr TIEN requested that relevant statistics be compiled by the Administration for monitoring purpose when review on ITF was conducted.

34. Mr SIN Chung-kai opined that the transparency of ITF's operation should be enhanced and details of individual funded projects should be made public through appropriate channels, such as the relevant web sites on the Internet. In reply, ADG/I(TD) informed members that the public could obtain such information on the web site of the Industry Department.

Operation of UICP

35. Mr NG Leung-sing raised concern about the absence of vetting committees under UICP because the participating universities were all fully funded by the Government and thus, the issue of resource allocation was involved. He asked whether a timetable and the criteria for reviewing the programme had been formulated, and whether the policy bureau responsible for education matters would be invited to join the review. ADG/I(TD) replied that although no vetting committee was set up under the programme, the Industry Department would play a role by vetting every application carefully. In addition, both the participating universities and private companies would be very concerned about the progress of the projects. Thus, the Administration was of the view that the programme would be effectively monitored through the checks and balances among the three parties.

36. Mr NG Leung-sing, however, was worried that with the sharing of royalties, the participating universities might put excessive resources into the research projects with a view to gaining more return and this would in turn reduce the resource input on teaching. In order to tackle the problem, he suggested that the Administration should consider enhancing the co-ordination between UGC and the policy bureaux concerned. Moreover, information about the potential impacts of undertaking the research projects on teaching and the material benefits that might be generated should be provided by the Industry Department. ADG/I(TD) advised that contacts had been maintained between the Industry Department and the UGC Secretariat. Upon receipt of an application, the Industry Department would inform the UGC Secretariat so as to check whether the project concerned had been submitted to the Research Grants Council of the UGC for funding and rejected subsequently. If so, the application would most likely be rejected by ITF. As far as she knew, the universities would hold in-depth and detailed discussion with the private companies concerned before accepting an offer for collaboration, with input from staff at Pro-Vice-Chancellor/Vice-President level. Moreover, the universities should have considered the potential impacts such projects might have on teaching and how such impacts could be minimized.

37. ADG/I(TD) further advised that given the autonomy universities had in matters concerning staff deployment, it was highly unlikely that UGC would reject individual projects. By maintaining contacts, the Industry Department and UGC would know the work done by each other. She highlighted the fact that universities had the right to decide how resources for teaching and research were used. Even without the programme, the universities would still conduct researches in collaboration with outside parties. The programme merely provided an additional channel of co-operation between the two parties and the final decisions should rest with the universities and the private companies.

38. Referring to paragraph 7(b) of the paper, Mr Kenneth TING sought clarification from the Administration on the intellectual property rights and royalty arrangements of development projects. ADG/I(TD) pointed out that the programme aimed at supporting commercial research and development projects undertaken by private companies in collaboration with local universities, as well as stimulating private sector interest in research and development through leveraging the knowledge and resources in universities. In order to provide proper safeguard and allow private companies to commercialize the technology concerned, the intellectual property rights arising from projects under the programme would certainly belong to the private companies concerned. However, taking into account the expertise and facilities the universities lent to the private companies for the researches, they were allowed to discuss with the companies in advance about their share of royalty after the technology concerned was commercialized. This would serve as an incentive for the universities to participate in the programme. While there were no mandatory requirements on the amount to be charged or indeed the sharing of royalty with the universities, it would be most important for both parties to reach an agreement before their collaboration so as to avoid future disputes.

VI. Report of the Competition Policy Advisory Group

- (LC Paper No. CB(1)1512/99-00(05) - Information paper provided by the Administration; and
- LC Paper No. CB(1)1512/99-00(06) - Competition Policy Advisory Group Report 1999-2000)

39. At the invitation of the Chairman, the Deputy Secretary for Trade and Industry (1) (DS/TI(1)) briefed members on the work carried out by the Competition Policy Advisory Group (COMPAG) in promoting competition in 1999-2000, details of which were set out in the report published by COMPAG on 29 April 2000 (LC Paper No. CB(1)1512/99-00(06)).

Work of COMPAG

40. Mr Fred LI remarked that as a group led by the Financial Secretary entrusted with the task of reviewing competition issues, COMPAG's work was indeed disappointing. He was also dissatisfied that no new areas of work was proposed for 2000-01. Apart from the information provided by government departments, Mr LI queried whether there were other channels through which COMPAG could learn of cases involving anti-competitive practices, such as the monopoly of concrete supply in the construction industry. Moreover, as COMPAG itself did not have any mechanism for investigating or tracking the complaints, all cases were simply referred to government departments for action.

41. DS/TI(1) responded that COMPAG had its established targets and various major programmes were formulated as a basis to carry out its work every year. If members considered it necessary to extend the scope of COMPAG's work, their suggestions would be most welcome. As regards the supply of concrete as

mentioned by Mr LI, the situation had already been noted by COMPAG and the matter would be discussed at its the regular meeting in June. DS/TI(1) went on to give members an overview of the procedures adopted by COMPAG in handling competition-related cases. She advised that complaints were received by COMPAG through different channels, such as cases lodged by members of the public or the relevant trades with the Secretary of COMPAG or the Trade and Industry Bureau (TIB) (competition issues would be transferred to the Economic Services Bureau (ESB) from 1 July 2000), cases referred by the Consumer Council (CC) or reported by the media. Generally speaking, whenever a competition-related complaint was received by CC, it would conduct investigations and gather information about the case. At the same time, it would also keep the Administration informed. COMPAG would discuss the complaint cases at each meeting and require the responsible policy bureaux or departments to give explanations or provide information papers whenever necessary. Tracking of complaint cases would generally be taken up by the bureaux/departments concerned or CC. Pending follow-up reports on the complaint cases, COMPAG would hold further discussions and, where appropriate, invite the parties concerned to attend its meetings to give explanations and exchange views. It was evident from the report that competition-related cases could be brought to the attention of COMPAG through different channels and its involvement did bring about improvements.

42. The Chairman also took the view that there was a need for more publicity about the channels through which members of the public could lodge their complaints with COMPAG. DS/TI(1) undertook to consider the suggestion.

43. Referring to paragraph 5.1 of the report which stated that CC had participated in COMPAG's discussions as an observer, Mr SIN Chung-kai enquired about the criteria for inviting observers to COMPAG's meetings. DS/TI(1) explained that it was not a standing arrangement to invite observers to attend COMPAG's meetings. However, during the past 12 months, CC had participated as an observer in COMPAG's discussions on a number of issues, and in recognition of the useful partnership between COMPAG and CC, CC become a full member of COMPAG starting from April 2000. When considering individual cases in future, COMPAG would still invite other organizations, such as chambers of commerce, trade associations, professional bodies or even LegCo Members to join in the discussions where necessary. However, she emphasized that as COMPAG's discussions often involved major policies or sensitive commercial information, its meetings might not be fully open.

44. Both Mr James TIEN and Mr NG Leung-sing welcomed CC's membership in COMPAG. However, Mr NG cautioned that when examining competition-related cases, COMPAG should also invite the product or service providers concerned to attend the meeting so that a balanced view could be obtained, particularly when CC's basic stance was to represent the users of such product or service. Given CC's participation in COMPAG's discussions, he was not convinced that COMPAG might not be able to invite outside bodies to attend its meetings because of the commercial secrets involved. In response, DS/TI(1) explained that when joining COMPAG, CC had agreed to comply with the

confidentiality agreement. During the processes of discussion and consultation, CC and other participating parties would give independent and professional opinions, and they would never simply agree to the Government's views. Only discussions conducted on this basis would be meaningful. She assured members that when formulating new measures, policy bureaux and departments would carry out serious consultation. Such an arrangement should be able to address Mr NG's concerns. She also undertook to relate Mr NG's views to COMPAG.

45. Miss Cyd HO pointed out that there might be a lack of communication between COMPAG and the Government as some of the Government's new initiatives mentioned in the report for promoting competition were actually in violation of the competition principles. For instance, while five sites for dedicated liquefied petroleum gas (LPG) filling stations had been granted by the Government at nil land premium earlier on, sites for the same purpose were subsequently tendered out with land premium. As such, the filling stations on the latter sites could hardly compete with the five stations which had their land premium exempted. She queried how this case could be regarded as in compliance with the competition principles and why COMPAG would allow the Government to introduce anti-competitive initiatives.

46. DS/TI(1) stressed that COMPAG had been maintaining contacts with the government departments concerned and some policy secretaries were also its members. When considering individual cases or initiatives, COMPAG would certainly invite the responsible policy secretaries or department heads to participate in its discussions. The information contained in the report was also provided by the policy bureaux and departments concerned and it was published with the approval of COMPAG. As for the case cited by Miss HO, DS/TI(1) pointed out that the initiative of providing new sites for LPG filling stations was aimed at facilitating the implementation of the LPG Taxi Scheme which would help reduce air pollution and encouraging competition in the market by facilitating the entry of new-comers.

47. Referring to the Environmental Impact Assessment Study conducted prior to the implementation of large-scale works projects, Miss HO suggested that the Government should also be required to consult COMPAG before introducing new policies so that no policies and initiatives of the Government would violate the principles of competition. DS/TI(1) replied that promoting competition was a government-wide responsibility. Under current practices, the authorities concerned had to consider whether new initiatives to be implemented would comply with the competition policies. Relevant guidelines had also been drawn up in this connection. Moreover, when major policies were to be introduced, the Administration would clearly indicate in the papers submitted to the Executive Council whether such initiatives complied with the competition policies. DS/TI(1) agreed to send a stronger message to all policy bureaux and departments.

48. Mr Fred LI remarked that as shown by the report, the Government had clearly failed in its efforts for promoting competition and the crux of the problem was the Government's opposition to CC's suggestion that a competition authority be

established with statutory powers. He specifically requested the Government to state its present position on CC's suggestion.

49. DS/TI(1) replied that the Administration's position in this matter had remained unchanged. The main consideration was that given Hong Kong's free trade policy, keen competition existed in all trades and industries. Thus, it was not necessary to introduce a comprehensive competition law. The Administration took the view that the establishment of a competition authority was not the only means to promote competition. On the contrary, the existing practice of adopting a flexible approach in taking remedial measures to deal with the problems in different trades was more effective. In fact, many economic indicators and international fora had suggested that Hong Kong was a place with a very high degree of freedom. As such, a comprehensive competition law that was enacted without careful consideration might not be the best way to promote competition.

Areas with anti-competitive practices

50. As regards the third generation (3G) mobile services, Mr James TIEN was concerned that the costs borne by prospective operators might be increased substantially if the licences were issued by auction. DS/TI(1) stated that according to her understanding, the Telecommunication Authority (TA) was still working on the licensing framework of the 3G mobile services and a final decision had yet to be made. She further advised that according to TA, although licensing by auction would be a more simple arrangement, the successful service providers might shift their costs to the consumers. Although this matter fell outside the purview of TIB, she undertook to relate Mr TIEN's views to TA for follow up.

51. On the supply of fuel, Mr TIEN pointed out that notwithstanding the new initiatives set out in the report for promoting competition, the public generally felt that oil prices, especially that of industrial diesel, remained on the high side, and it was mainly because there were few suppliers in the market. In view of this, Mr TIEN suggested that the requirement in relation to the control of dangerous goods on fuel storage facilities be reviewed so that the industries could have their own warehouses for parallel importation of industrial diesel. In this way, the suppliers might be induced to lower their prices. DS/TI(1) said that according to her understanding, the authorities concerned were of the view that fuel prices should be determined by the oil companies in the light of market conditions, and not by the Government. Thus, no regulation control was contemplated for the time being. Nevertheless, both COMPAG and ESB were gravely concerned about fuel prices. Recently, a Competition Subcommittee was established by ESB under the Energy Advisory Committee to explore ways to promote competition in the fuel market. She undertook to relate Mr TIEN's concern over the price of industrial diesel to ESB and the Subcommittee.

52. The Chairman stressed that as the policy bureau responsible for competition-related policies, TIB should hold detailed discussions with the Subcommittee to explore the ways in which more competition could be introduced in the markets of energy and fuel supply.

53. Responding to Mr Fred LI's enquiry, DS/TI(1) advised that in view of the concerns expressed by the public and concerned parties, the Housing Department was reconsidering the feasibility of providing central LPG in public housing estates.

54. Referring to the new initiative on the management of public cargo working areas as stated under item (17), Mr James TIEN said that the terminal handling charges in Hong Kong were too high and it was in violation of the principles of fair competition. This matter had all along been a matter of grave concern for the ES Panel. He hoped that the Competition Subcommittee could also look into the matter. DS/TI(1) undertook to relate Mr TIEN's suggestion to the Subcommittee and ESB.

55. As regards the simultaneous fee increases by mobile phone services providers, Mr HUI Cheung-ching pointed out that even though the six companies rescinded the fee increases after TA's intervention, they subsequently re-applied for fee increase separately and achieved their objective of simultaneous fee increases ultimately. In this connection, he enquired about the criteria for evaluating such behaviour. DS/TI(1) replied that individual cases would be evaluated according to the circumstances of the trade. It would be most important to ensure that the service providers or individual companies had neither employed any trade practices that violated the competition policies, nor adopted restrictive measures to prevent entry into the market. The above case had clearly illustrated that follow-up actions would be taken in cases involving anti-competitive practices and useful results were achieved. Although TA considered that no further action was required, warning letters had been sent to these companies, reminding them to fulfil their obligations under the licence requirements. If not, penalties might be imposed in accordance with the licensing conditions. TA would continue to examine ways in which consumer protection could be safeguarded further and it would work closely with CC to monitor the terms and conditions of service contracts signed between the services providers and their clients.

56. Both Mr HUI Cheung-ching and the Chairman were unconvinced by the Administration's response because some mobile phone services providers ultimately succeeded in increasing their charges and it was obvious that consumers were not sufficiently protected.

VII. Any other business

57. There being no other business, the meeting ended at 4:15 pm.