

立法會

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Report of the Panel on Commerce and Industry for submission to the Legislative Council

Purpose

This report gives an account of the work of the Panel on Commerce and Industry during the 2005-06 session of the Legislative Council. It will be tabled at the Council meeting on 12 July 2006 in accordance with Rule 77(14) of the Rules of Procedure of the Council.

The Panel

2. The Panel was formed by a resolution passed by the Council on 8 July 1998 and as amended on 20 December 2000 for the purpose of monitoring and examining Government policies and issues of public concern relating to commerce and industry. The terms of reference of the Panel are at **Appendix I**.

3. The Panel comprises 10 members. Hon Mrs Sophie LEUNG LAU Yau-fun and Hon Vincent FANG Kang were elected Chairman and Deputy Chairman of the Panel respectively. The membership list of the Panel is at **Appendix II**.

Major work

Hong Kong's participation in the World Trade Organization (WTO)

Sixth Ministerial Conference (MC6)

4. The Panel continued to monitor the preparatory work for MC6 held in Hong Kong from 13 to 18 December 2005 and reviewed the event after its conclusion. On logistical arrangements for MC6, members had received updates on various measures to ensure public order and safety for people and property, and the smooth conduct of the conference. The Panel also exchanged views with the Administration on measures to facilitate peaceful demonstrations

and the need to strike a reasonable balance between maintaining law and order and safeguarding freedom of expression.

5. In general, the Panel considered that MC6 had been successfully hosted and was pleased to note that its good organization had been commended by the Director-General of WTO and the global media attending MC6. Members also found it encouraging that after rounds of tough negotiations, the ministers had adopted the Hong Kong Ministerial Declaration which was a major step forward in the multilateral trade negotiations under the Doha Development Agenda. To send a positive signal on trade liberalization, members considered that the outcomes achieved by MC6 in various negotiation areas should be more widely publicized. The Panel also issued a letter to the Administration expressing appreciation of the latter's efforts in organizing and conducting the conference.

Trade in goods and services

6. The Panel expressed the concern that despite the elimination of export quotas with effect from 1 January 2005, Hong Kong's textile and clothing products were still subject to anti-dumping measures by some WTO members. The Administration agreed that these measures were unwarranted as industries in Hong Kong had not received government subsidies. It also assured members that the Trade and Industry Department attached much importance to the work to improve and clarify the trade rules among all WTO members so as to guard against abuse of the use of anti-dumping measures by other trading partners.

7. The Panel discussed with the Administration Hong Kong's accession to various WTO agreements and the implications of these agreements to Hong Kong. Some members were particularly concerned whether the WTO agreements on trade in services would lead to the privatization or outsourcing of public services, such as postal service, thereby affecting the job security of civil servants or employees engaged for the provision of such services. The Administration confirmed that the General Agreement on Trade in Services (GATS) did not apply to public services which were not provided on a commercial basis or in competition with one or more service suppliers. Moreover, GATS did not require the privatization or outsourcing of any governmental services. The Administration also assured members that it would continue to exercise prudence in formulating offers under WTO services negotiations having regard to Hong Kong's economic and social conditions.

8. Some members queried whether Hong Kong's accession to the Agreement on Government Procurement (GPA) would disadvantage local suppliers in bidding for government procurement contracts. The Administration advised that the spirit and objectives of the GPA based on the principles of "non-discrimination" and "transparency" were fully consistent with the Government's procurement policy. It also believed that under the GPA, Hong Kong suppliers could compete on an equal footing with other suppliers in bidding for government contracts of other GPA members.

The Mainland and Hong Kong Closer Economic Partnership Arrangement (CEPA)

9. The Panel was pleased to note that with the implementation of the Third Phase of CEPA starting from 1 January 2006, all products of Hong Kong origin (with a few exceptions) could be exported to the Mainland tariff-free. Some members considered that it was high time for the Administration to take proactive measures to promote CEPA to overseas investors and to encourage relocation of manufacturing operations back to Hong Kong through concessionary arrangements. Appropriate assistance should also be rendered to traditional industries such as textiles and garments to move up the value chain. Some members suggested that the land released as a result of the reduction of the frontier closed area might be developed as a production base for the local manufacturing industries. The Administration assured the Panel of its ongoing effort overseas and in the Mainland to promote the business opportunities under CEPA. Whilst it was not the policy intention to provide concessions such as land grant and tax relief for the purpose of CEPA, the Administration nevertheless took note of members' concern about the need for proactive steps to tap the full advantage of the liberalization measures under CEPA.

10. The impact of the implementation of CEPA on local employment was another major concern for the Panel. Members noted that according to a projection made by the Administration in 2004, about 20 000 new jobs were estimated to be created in 2004 while some 9 000 would be created in 2005. The Panel would continue to monitor the full impact of the implementation of various phases of CEPA on local employment.

11. On the Individual Visit Scheme, some members considered that in addition to extending the Scheme to more provinces and cities, the Administration should pursue with the Mainland authorities the feasibility of allowing multiple visits by Mainland residents to Hong Kong within the same year, and extending the maximum duration of each visit to more than seven days.

12. The Administration would update the Panel on the implementation of CEPA in July 2006.

Promotion of inward investment

13. In discussing the work of Invest Hong Kong (InvestHK) in promoting inward investment, the Panel noted the variety of promotional activities carried out by the department and in collaboration with other strategic partners. Members expressed concern about the cost-effectiveness of InvestHK and sought information on the tangible and intangible benefits brought to Hong Kong as a result of its investment promotion work. Some members reiterated their call for more coordinated effort and synergy among various overseas offices tasked to promote trade with and investment in Hong Kong.

14. On InvestHK's mission, some members stressed that apart from promoting Hong Kong's existing strengths to overseas investors, InvestHK should strive proactively to attract inward investments in new industries so as to achieve a more diversified base for Hong Kong's economy. They were pleased to note InvestHK's plan to commission a separate review of the nine priority sectors which were currently the focus of its investment promotion work. Some members further considered that to encourage investment in Hong Kong, the Government should strive to provide a favourable business environment by considering incentives such as tax and land concessions.

15. Given its knowledge of and exposure to international markets, InvestHK was asked to apprise the Government of investment promotion initiatives which had been successfully implemented in other economies. InvestHK also responded positively to members' suggestion to strengthen collaboration with the business sector, such as chambers of commerce and trade associations, in its investment promotion work.

Strengthening Hong Kong Special Administrative Region (HKSAR)'s representation in the Mainland and overseas

16. The Panel was briefed on the Administration's proposal to set up an Economic and Trade Office (ETO) in Shanghai and another one in Chengdu scheduled to commence operation in the third quarter of 2006. In general, members supported the setting up of new ETOs at major locations in the Mainland to promote economic and trade relations and cooperation. Some members expressed concern about the wide coverage of the two ETOs and considered that their geographical coverage should be reviewed and re-aligned in the light of operational experience. The Panel also requested regular briefings by the Mainland ETOs on their work.

17. On the provision of assistance to Hong Kong residents in distress in the Mainland, the Panel was pleased to note that the coverage of the Guangdong ETO would be expanded to cover five provinces in the Pan Pearl River Delta and that its function would be enhanced to provide practical assistance to Hong Kong residents in distress within its coverage. In this connection, members called on the Administration to formulate plans as soon as possible to upgrade the functions of ETOs in the Mainland. Members also considered that support should be rendered by ETOs in giving advice and assistance to Hong Kong residents taking up employment in the Mainland.

18. The Panel was briefed by the various Heads of ETOs and the Office of the Government of the Hong Kong Special Administrative Region in Beijing on the major activities and the latest development in economic and trade related matters under their respective purview. Members appreciated the services and assistance rendered by ETOs, particularly in keeping the local industries abreast of issues such as trade sanction measures taken by the European Union and the United States. Members considered that with the establishment of a new ETO in Berlin, the Government should strengthen HKSAR's representation in the

eastern part of Europe, which was experiencing rapid economic growth, and to forge closer and stronger economic and trade relationships with the countries there to promote business opportunities. This would facilitate Hong Kong entrepreneurs to expand their business and investments in the European markets.

Innovation and technology development

19. The Panel was briefed on the progress in establishing the Research and Development Centre on Information and Communications Technologies (ICT R&D Centre) by the Hong Kong Applied Science and Technology Research Institute Company Limited (ASTRI). Members noted that the ICT R&D Centre would be subsumed under the existing organizational structure of ASTRI to provide the thrust of the R&D work of ASTRI. The Centre became operational in April 2006.

20. Whilst members were generally supportive of the establishment of the ICT R&D Centre to foster development of information and communications technologies and enhance commercialization of the R&D products, some members considered that ASTRI should ensure that its resources would not be used by private enterprises to pursue their own R&D projects, and there should be a proper mechanism for deciding intellectual property rights and sharing of benefits generated from the projects. Noting the concerns, the Administration advised members that the ICT R&D Centre would work in close collaboration with the industries and other R&D institutions, and undertake market research on potential projects. As such, the research projects would be industry-driven with clear industry demand and market potential for the R&D deliverables. Moreover, the ICT R&D Centre would serve as a platform to facilitate the proper exchange and use of intellectual property rights. Industry players would be encouraged to participate in the projects as sponsors. Depending on the level of their contributions, among other considerations, they might be entitled to exclusive licensing or sharing of the intellectual property benefits. The arrangements would be worked out by ASTRI in accordance with fair commercial principles.

21. Members also expressed views on the mix of R&D staff of the Centre and suggested that a suitable number of R&D personnel should be recruited from places outside Hong Kong to instil an international vision into the researches. The Administration shared the view and advised members that the recruitment would take into account the R&D qualifications and working experience of the candidates. It was expected that about 70% of the new appointees would be Hong Kong residents and around 30% would be recruited from other places including the Mainland and overseas.

Rice Control Scheme (RCS)

22. The Panel was briefed on the implementation arrangements under the RCS since liberalization of the rice trade in January 2003. Members noted that the Government only maintained the minimum control necessary to ensure a

stable supply of rice, and to keep a reserve stock at a level sufficient for local consumption for 15 days to cater for emergencies or any short-term shortage of supply.

23. Arising from the rice traders' concerns over the need to maintain a reserve stock, some members considered that the local population still had a psychological reliance on rice as a staple food and hence there was still a need to maintain a reserve stock to ease public panic under exceptional circumstances. The Administration should continue to review RCS to see whether the level of reserve stock should be suitably reduced. Publicity and education should be enhanced to strengthen the monitoring of the compliance of stockholders with the requirements of RCS. The Administration should also examine whether the rice trade had a consensus on the full liberalization of the rice trade, and discuss the issue with the Rice Advisory Committee before considering the way forward.

24. On rice traders' concern about the unfair competition which had arisen from the failure of a number of new stockholders in complying with the requirements of RCS, members urged the Administration to intensify enforcement actions against offenders, in particular those new stockholders which entered the market lately, so as to achieve a deterrent effect and provide a fair business environment in Hong Kong. The Administration assured members that it would make continuous efforts to step up administrative and enforcement actions to uphold the integrity of RCS.

Copyright protection

25. The Panel followed up the outcome of the public consultation conducted by the Administration in December 2004 and noted that in response to the views from various stakeholders, the Administration had refined some of its preliminary proposals on copyright-related issues. On the Administration's refined proposal to limit the proposed directors/partners criminal liability associated with a body corporate or partnership having committed a business end-user criminal offence to only those directors, partners or persons carrying out chief executive functions, some members pointed out that it might not be easy to identify those senior management staff who carried out chief executive functions. Members were also gravely concerned about the possible shift of the burden of proof from the prosecution to the defendant as according to the Administration's proposal, the directors/partners of the company or firm would also be liable for the misconduct of their corporation or firm unless there was evidence showing that they had not authorized the infringing act to be done. Despite the Administration's advice that the proposed provision aimed at promoting corporate accountability and responsible governance to prevent business end-user piracy and that it would only place an evidential burden and not a legal burden of proof on the defendant, some members questioned the propriety of the proposed approach and asked the Administration to provide information on how overseas legislation dealt with the liability of directors and partners when certain offences were committed by their companies.

26. Members also raised questions on the application of the proposed end-user copying/distribution criminal liability and raised concern about the distribution of copyright materials via private networks such as the Intranet of a company. The Administration advised that currently, there was no licensing scheme whereby business end-users could conveniently obtain authorization from copyright owners of the printed works to cover the electronic distribution of the work. It was also necessary to formulate the appropriate "safe harbour" perimeters. Pending finalization of these issues, the Administration would defer the application of the proposed end-user copying/distribution offence to situations involving private networks.

27. The Copyright (Amendment) Bill 2006 was introduced into the Council on 29 March 2006 and being studied by a Bills Committee.

28. From October 2005 to end June 2006, the Panel held a total of eight meetings.

Council Business Division 1
Legislative Council Secretariat
29 June 2006

Panel on Commerce and Industry

Terms of Reference

1. To monitor and examine Government policies and issues of public concern relating to commerce, industry, business and services promotion, innovation and technology, intellectual property protection and inward investment promotion matters.
2. To provide a forum for the exchange and dissemination of views on the above policy matters.
3. To receive briefings and to formulate views on any major legislative or financial proposals in respect of the above policy areas prior to their formal introduction to the Council or Finance Committee.
4. To monitor and examine, to the extent it considers necessary, the above policy matters referred to it by a member of the Panel or by the House Committee.
5. To make reports to the Council or to the House Committee as required by the Rules of Procedure.

Panel on Commerce and Industry

Membership list for 2005-2006 session

Chairman Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP

Deputy Chairman Hon Vincent FANG Kang, JP

Members Dr Hon LUI Ming-wah, SBS, JP
Hon CHAN Kam-lam, SBS, JP
Hon SIN Chung-kai, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon WONG Ting-kwong, BBS
Hon CHIM Pui-chung

(Total : 10 Members)

Clerk Miss Polly YEUNG

Legal Adviser Miss Anita HO

Date 13 October 2005