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Panel on Commerce and Industry

Minutes of meeting
held on Tuesday, 13 February 2007, at 4:30 pm
in Conference Room A of the Legislative Council Building

- Members present** : Hon Vincent FANG Kang, JP (Chairman)
Hon Mrs Sophie LEUNG LAU Yau-fun, 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 Ronny TONG Ka-wah, SC
Hon CHIM Pui-chung
- Members absent** : Hon WONG Ting-kwong, BBS (Deputy Chairman)
Dr Hon LUI Ming-wah, SBS, JP
Hon CHAN Kam-lam, SBS, JP
- Public officers attending** : Agenda Item IV

Ms Linda LAI
Acting Permanent Secretary for Commerce, Industry
and Technology (Commerce and Industry)

Mr CHENG Yan Chee
Deputy Director-General of Trade and Industry
(Multilateral, Regional Co-operation and Europe)

Miss Rosanna LAW
Assistant Director-General of Trade and Industry
(Multilateral)

Agenda Item V

Ms Linda LAI
Acting Permanent Secretary for Commerce, Industry
and Technology (Commerce and Industry)

Mr Michael ROWSE
Director-General of Investment Promotion
Invest Hong Kong

Miss Charmaine WONG
Associate Director-General of Investment Promotion 3
Invest Hong Kong

Agenda Item VI

Mr Christopher K B WONG
Deputy Secretary for Commerce, Industry and
Technology (Commerce and Industry)

Mr Peter CHEUNG
Deputy Director
Intellectual Property Department

Ms Jenny WONG
Head, Marketing Division
Intellectual Property Department

Clerk in attendance : Miss Erin TSANG
Chief Council Secretary (1)3

Staff in attendance : Ms YUE Tin-po
Senior Council Secretary (1)5

Ms Guy YIP
Council Secretary (1)1

Ms May LEUNG
Legislative Assistant (1)6

I. Confirmation of minutes of meeting

(LC Paper No. CB(1)902/06-07 -- Minutes of meeting held on 16 January 2007)

The minutes of the meeting held on 16 January 2007 were confirmed.

II. Information paper issued since last meeting

2. Members noted that there had not been any paper issued for the Panel's information since the last meeting held on 16 January 2007.

III. Date of next meeting and items for discussion

(LC Paper No. CB(1)905/06-07(01) -- List of outstanding items for discussion

LC Paper No. CB(1)905/06-07(02) -- List of follow-up actions)

3. Members agreed that the following items would be discussed at the next meeting scheduled for 13 March 2007 –

- (a) Economic Summit - Action Agenda of the Focus Group on Trade and Business; and
- (b) Maintaining Hong Kong's advantages in convention/exhibition services in the light of competition from other countries.

IV. Progress of the World Trade Organization Doha Development Agenda negotiations

(LC Paper No. CB(1)905/06-07(03) -- Paper provided by the Administration

LC Paper No. CB(1)905/06-07(04) -- Bi-monthly Report for July and August 2006 issued by the Geneva Economic and Trade Office)

Briefing by the Administration

4. At the invitation of the Chairman, the Deputy Director-General of Trade and Industry (Multilateral, Regional Co-operation and Europe) (DDGTI) briefed members on the latest development of the multilateral trade negotiations under the Doha Development Agenda (DDA) of the World Trade Organization (WTO).

5. In gist, DDGTI said that at the Panel meeting held on 17 January 2006, members were informed of the outcome of the Sixth Ministerial Conference of the

WTO (MC6) which had concluded successfully in December 2005. The Hong Kong Ministerial Declaration established a launching pad for the DDA negotiations to enter its final phase in 2006. Since the MC6, work continued intensively in Geneva and serious efforts were made at the ministerial/leaders level. Discussions were focused on the so-called triangle of core issues: domestic support for agriculture, market access for agriculture, and market access for non-agricultural products. However, as consensus could not be reached among major players, the negotiations were stuck. At the recommendation of the Director-General of the WTO (DG/WTO), the WTO General Council (WTOGC) endorsed on 27 July 2006 the suspension of the DDA negotiations, to enable serious reflection by all parties concerned. Sensing the WTO membership's general wish to restart the negotiations, the DG/WTO convened a meeting of the WTO Trade Negotiations Committee at Heads of Delegation level on 16 November 2006 to restart technical work of the DDA negotiations. Subsequently, a full resumption of the DDA negotiations was endorsed by the WTOGC at its meeting on 7 February 2007. DDGTI stressed that during the period of suspension (i.e. from July 2006 to February 2007), Hong Kong had played a constructive role in pushing for the resumption of the talks. The Secretary for Commerce, Industry and Technology (SCIT) had been in close contact with ministers of major WTO Members as well as the DG/WTO with a view to bringing the DDA negotiations back on track.

6. In this connection, DDGTI remarked that notwithstanding the full resumption of the DDA negotiations, the Administration of the United States (US) needed major advances in the negotiations before it could persuade the US Congress to renew the US Presidential Trade Promotion Authority (TPA) which was due to expire on 1 July 2007. He explained that the TPA granted the President of the US the authority to negotiate trade deals with other countries. Given that the current TPA would expire on 1 July 2007, if the US wished to enter into a WTO agreement on the DDA, the President had to notify the Congress of his intent to do so on or before 31 March 2007, unless the TPA was renewed by the Congress. DDGTI pointed out that the key to a breakthrough in the DDA negotiations lied in the key players making compromise on agricultural market access and domestic farm support, as well as developing economies demonstrating a willingness to open their markets further to imports of services and industrial goods. As such, he remarked that although negotiations had resumed in practice, it was unclear at this stage when, and how, they would progress and conclude. Hong Kong would monitor closely the development, and would continue to participate constructively in the negotiations, as well as playing an even more active role in its priority areas, namely services (i.e. to achieve progressive liberalization for trade in services) and rules (i.e. to clarify and improve trade rules).

7. On the impact of the DDA negotiations, DDGTI advised that the success of the Doha Round would bring about numerous benefits such as global economic growth, poverty alleviation, increased predictability and certainty in the global trading environment due to improved/clarified trade rules, as well as enhanced trading opportunities through reduction in tariffs. In the case of Hong Kong, tariff reduction in domestic exports would have multiplying beneficial effect for business

and employment opportunities in Hong Kong. Moreover, Hong Kong enterprises could also enjoy enhanced access to the overseas services markets liberalized under the Doha Round. On the contrary, however, a failure of the Doha Round would reinforce protectionist pressure and proliferate bilateral and regional trade deals. This would increase operational inconvenience and transaction costs for traders.

Discussion

Collaborative efforts for a breakthrough in the DDA negotiations

8. Mr Jeffrey LAM recalled that during the period when the "most-favoured nation treatment" was granted to China, the Administration had used to join hands with the local business sector, as well as those of the Mainland and the US, for lobbying. Since such kind of collaboration between the Government and the business sector was useful and effective in achieving the goal, he enquired whether similar arrangement would be made by the Administration to advance the DDA negotiations towards a successful conclusion.

9. In response, the Assistant Director-General of Trade and Industry (Multilateral) (ADGTI) affirmed that before China's accession to WTO, collaborative effort had been made by the Administration and the local business sector for the lobbying in relation to the granting of annual waiver to maintain the "Normal Trade Relations" status of China, without which there would have been severe impact on the economies of Hong Kong and the Mainland. With China's accession to the WTO, such kind of lobbying was no longer required. In the case of the DDA negotiations, however, negotiations were conducted inter-governmentally and hence most of the work was done at the government level. Nevertheless, she remarked that support from the local business sector was necessary, and it would be particularly useful for the industry to reflect to the governments of Hong Kong's trading partners their views against protectionism by individual economies. On the part of the HKSAR Government, it had regular meetings with Chambers of Commerce including the Hong Kong Coalition of Service Industries (HKCSI) in order to exert greater pressure on the trading partners of Hong Kong in respect of the priority areas. HKCSI, in collaboration with overseas coalitions of services industries, also issued joint statements and conducted visits to Geneva to put forward their views and concerns to WTO Members. Moreover, the various Economic and Trade Offices (ETOs) maintained close contact with the respective host governments in order to collect up-to-date information on the political and economic developments in those countries/places. Noting the work done by the Government in relation to the DDA negotiations, Mr Jeffrey LAM remarked that the local business sector would co-operate with the Government with a view to bringing about the successful conclusion of the DDA negotiations.

10. Acknowledging that the success of the DDA negotiations would have significant and positive impact on the multilateral trading system, Mr Andrew LEUNG observed, however, that the needs and concerns of developed and least-developed economy Members diverged, and hence the impediment to the

successful conclusion of the DDA negotiations. In this respect, he noted that Hong Kong had participated actively in the negotiations and also hosted MC6 with a view to acting as a middleman between opposing groups of WTO Members. SCIT had also made his effort in pursuing the matter with the developed economy Members such as the European Union. He enquired whether similar endeavour was made by SCIT to lobby least-developed economy Members so as to facilitate the successful conclusion of the DDA negotiations.

11. ADGTI informed that the former SCIT had personally visited some of the least-developed countries such as those in Africa and the Caribbean, and had gained their trust on Hong Kong's impartial stance in the negotiations. As such, Hong Kong's role as an honest broker when hosting MC6 had earned the respect from developed and developing economy Members alike. As a result, agreement was achieved in several areas of negotiations including the elimination of all forms of export subsidies in agriculture by 2013, Duty-Free Quota Free access for Least-developed Members, etc. She advised further that since MC6, Hong Kong had continued to participate actively and constructively as a middleman in the DDA negotiations despite the fact that Hong Kong was not in the core of the agricultural negotiations which were the key of the Doha Round. She added that Hong Kong's Permanent Representative to Geneva was the Chair of the Negotiating Group on Trade Facilitation, and least-developed countries, in particular, could benefit a lot from trade facilitation such as in the areas of customs clearance and export procedures, etc. As such, Hong Kong would focus its effort on, inter alia, trade facilitation with a view to facilitating better integration of developing and least-developed countries into the world economy.

12. In this connection, the Chairman noted that Mr Tony Miller, i.e. Hong Kong's Permanent Representative to Geneva and Chair of the Negotiating Group on Trade Facilitation, would soon retire. He was concerned whether Mr Miller's retirement would have any negative impact on the progress of the Doha Round. In response, the Acting Permanent Secretary for Commerce, Industry and Technology (Commerce and Industry) assured that the Administration would, in accordance with the established procedure, select the most suitable person to replace Mr Miller upon his retirement to continue with the work of the Geneva ETO. She stressed that a change in personnel would not have any impact on the representation of Hong Kong in the WTO nor Hong Kong's participation in the DDA negotiations.

Renewal of the TPA

13. In view of the negative impact of the failure of the DDA negotiations on Hong Kong and its neighbouring countries, and the need for major advances in the negotiations to enable the renewal of the TPA, Mr Jeffrey LAM sought information on the work done by the Administration to help achieving the success of the DDA negotiations, in particular whether close contact had been maintained with the US Congress and liaison made with the neighbouring countries.

14. In response, ADGTI shared the concern that the failure of the DDA negotiations would bring about adverse impact on Hong Kong and other WTO Members including Hong Kong's neighbouring economies. She assured that every endeavour would be made by Hong Kong with a view to achieving a successful conclusion of the DDA negotiations. In this connection, she informed that the US President had, at the end of January 2007, expressed that he would request the US Congress to renew the TPA. Dialogue between the US Trade Representative and the US Congress in respect of the renewal of the TPA had already commenced. The Washington ETO had been maintaining close contact with representatives of the two political parties in the US Congress, as well as members and staff of major committees such as the Committee on Ways and Means, so as to gauge the stance of the US Congressmen and to suitably raise with them the interest and concern of Hong Kong. In addition, SCIT would meet with Mr Peter Mandelson, the Commissioner for Trade of the European Commission, during his official visit to Europe this week, with a view to striving for advances in the DDA negotiations to facilitate the US Administration's persuasion of the US Congress on the renewal of the TPA. She added that if the TPA was renewed, there would be more time for WTO Members to continue with the DDA negotiations, thereby enhancing the chance for a successful conclusion.

15. In this connection, the Chairman referred to the information provided in the Administration's paper that WTO Members had to strive hard between now and April 2007 for breakthroughs in the negotiations in order that the TPA could be renewed by the US Congress. While noting that the TPA would expire on 1 July 2007, he enquired as to why the deadline for efforts to be made by WTO Members was set in April 2007 but not July 2007. In response, DDGTI explained that pursuant to the statutory requirements of the TPA, the US President had to notify the US Congress of his intent to enter into any trade agreement at least 90 days before entering into the agreement. Since the current TPA would expire on 1 July 2007, the deadline for the US President's notification to the Congress of the US intent, if any, to enter into a WTO agreement on the DDA therefore fell on 31 March 2007, and hence the effort to be made from now to April 2007 for major advances in the negotiations to facilitate the renewal of the TPA. He added that although the technical work had restarted in November 2006 and negotiations formally resumed in early February 2007, limited progress had been made. Nevertheless, he assured that Hong Kong would continue to play an active role and make the best endeavour in the Doha Round. In this respect, SCIT had, during his official visit to Europe this week, initiated lobbying at the ministerial level with a view to striving for breakthroughs in the DDA negotiations and hence a greater chance for renewal of the TPA.

Impact of the DDA negotiations on China

16. Noting that the success of the DDA negotiations would bring about reduction in tariffs and, according to rough estimation, as much as HK\$5.5 billion per year in tariff payments could be saved in respect of Hong Kong' major domestic export items, the Chairman enquired whether liberalization in the trade of

agricultural products as a result of the successful conclusion of the negotiations would also have positive impact on China, given that China had a major interest in agriculture. Moreover, in view of Hong Kong's increasing economic integration with the Mainland, and the close relation between the two economies, he enquired whether Hong Kong had to co-ordinate its stance with China in the DDA negotiations.

17. In response, ADGTI acknowledged that as an open market without customs tariffs, Hong Kong could certainly benefit from reduction in customs tariffs brought about by the successful conclusion of the DDA negotiations as tariff payments could be saved. In the case of China, as well as other developing countries, where there were a lot of farmers whose interests had to be properly protected, their situation would be much more complex as those countries had to strike a balance between different domestic interests. She explained further that although tariff reduction would result in competition in the domestic agricultural market in China, the elimination of subsidies and reduction of domestic support in agriculture by developed economy Members would enhance the competitiveness of China's agricultural exports. Similarly, as the "world factory", China's industrial exports such as textile and clothing products could also benefit from reduction in customs tariffs as their competitiveness could be enhanced. Nevertheless, as a developing country, China had also imposed high tariffs on certain products imported from other WTO Members. As such, a compromise in this area might have to be made by China. Regarding the stance of Hong Kong in the DDA negotiations, ADGTI advised that as a WTO member in its own right, Hong Kong did not have to co-ordinate its stance with China.

V. Promotion of inward investment

(LC Paper No. CB(1)905/06-07(05) -- Paper provided by the Administration

LC Paper No. CB(1)905/06-07(06) -- Background Brief prepared by the Legislative Council Secretariat)

Briefing by the Administration

18. At the invitation of the Chairman, the Director-General of Investment Promotion (DGIP) updated members on the work of Invest Hong Kong (InvestHK) which was highlighted below:

(a) Investment promotion strategy

To keep direct market intervention at the modest level, the investment promotion work of InvestHK was largely based on marketing, i.e. to explain to companies the advantages of Hong Kong as a place to do business. InvestHK had been actively promoting Hong Kong's unique position as a two-way platform for business between the Mainland and the rest of the world, a preferred destination for foreign

direct investment in Asia and the international business hub for multinational corporations. It operated reactively to provide assistance to companies in any sectors, and proactively to reach out to companies from the nine priority sectors in which Hong Kong had comparative advantages, namely business and professional services; consumer, retail and sourcing; financial services; information technology; telecommunications, media and multimedia; technology; tourism and entertainment; transportation; and special projects.

In addition, to keep track of the global business environment, in particular Asia, sector-based strategy papers were prepared and updated around September each year. On the basis of the strategy papers, detailed business plans would be worked out in October each year setting out planned activities in the coming calendar year. For each of the priority sectors, there were (a) selected existing investors for aftercare contact, (b) a number of live investment projects i.e. companies that were not yet in Hong Kong but had been in contact with InvestHK because of their firm plans for establishment in Asia in the coming 12 to 18 months, and the aim of InvestHK was to bring those projects to fruition, and (c) companies identified from research which were not yet established in Hong Kong, and InvestHK would proactively reach out to and make contact with them in the coming 12 months. The business plans would be sub-divided into geographical business plans for each of the 26 overseas representatives, being out stationed staff operating 11 Investment Promotion Units (IPUs) and the 15 external consultant companies engaged by InvestHK. Apart from the companies covered in those business plans, assistance would also be provided to companies which approached InvestHK on their own initiative.

(b) Utilization of resources

In 2003, the Finance Committee approved the creation of a new commitment of \$200 million to enable InvestHK to strengthen its investment promotion work from 2003-2004 to 2007-2008. With the extra resources which represented an increase of about 65% in the department's overall provision, the number of investment projects completed before the provision of the additional resources vis-à-vis those completed in 2006 were about 120 and about 250 respectively, representing a 100% growth. Any unspent additional resources would be carried over to strengthen InvestHK's investment promotion activities in 2008-09.

(c) Attracting Mainland investments

InvestHK had put in a lot of resources in recent years to attract Mainland investments in Hong Kong. In 2006, the completed projects related to Mainland investments in Hong Kong represented a 17% share of the total number of completed projects as compared with almost zero percent in 2002. IPU in the Mainland had also increased from one to four, namely the IPUs in Guangzhou, Beijing, Shanghai and Chengdu. As an immediate target, projects to be completed by InvestHK in relation to Mainland investments in Hong Kong would grow to a 20% share of the total number of completed projects, and at least 25% in the medium term.

(d) Mainland and Hong Kong Closer Economic Partnership Arrangement (CEPA) effect

Of the investment projects completed in 2006, 25% of the companies had indicated that CEPA was a contributing factor considered in making the investment.

(e) Aftercare services

Aftercare services had proven to be productive and existing investors now produced about 25% of the new investment projects by encouraging them to expand further in Hong Kong. To address investors' needs, a range of services was offered, such as providing assistance in finding school places in international schools and applying for work visas for the companies' related personnel.

Discussion

Investment promotion

19. Mr Jeffrey LAM appreciated the Administration's effort in promoting inward investment in overseas markets such as those in the Western Europe by setting up IPUs in various places. However, he noted with concern that in 2006, investment projects completed in the Middle East only amounted to 2.4% of the total number of projects completed by InvestHK, despite the fact that feedback from both Hong Kong investors investing in the Middle East and the Middle East investors investing in the Mainland through Hong Kong was very positive. He enquired whether InvestHK would strengthen its efforts in this geographical region in order to boost further investment. In respect of the Eastern Europe, Mr LAM noted that certain promotion activities had been undertaken, such as a visit organized by the Trade Development Council (TDC) last year and another one made by the Secretary for Commerce, Industry and Technology to Budapest, Geneva and Paris in November 2006 with a view to exploring business opportunities. There was also positive feedback from Eastern European businessmen who were interested in

making investment in Hong Kong or sourcing products from the Mainland. However, he remarked that as reflected by those businessmen, the information that they could obtain about Hong Kong or the Mainland was far from adequate to deepen their understanding on the business opportunities available in these two places. As such, he enquired whether InvestHK had any plans to assist the local import and export sector to reap the maximum benefits from grasping the business opportunities available in the Eastern Europe, as well as attracting investors from Eastern European to invest in the Mainland through Hong Kong.

20. DGIP assured members that InvestHK had not neglected the Middle East nor the Eastern Europe. Representative offices had been set up in Dubai (Arab Middle East), Tel Aviv (Israel), Istanbul (Turkey) and Mumbai (India) respectively. The promotion efforts spent in the Middle East had begun to bear fruit with a steady stream of companies, for example from Israel and India, coming to invest in Hong Kong. He added that with the upcoming opening of the Indian Diamond Institute in Hong Kong, a number of jewelry companies would be encouraged to set up a direct physical presence in Hong Kong as those companies relied on the services provided by the Institute. In respect of the Eastern Europe, InvestHK had attached equal importance to the investment promotion in this area. Apart from visits made by himself and his deputy, InvestHK would also strengthen its representation in the Eastern Europe as an IPU would be set up in the Berlin ETO to be opened later this year, which would be responsible for the markets in the Eastern Europe.

21. The Acting Permanent Secretary for Commerce, Industry and Technology (Commerce and Industry (Acting PSCI)) supplemented that the Government was fully aware of the importance to strengthen trade and economic ties with Eastern Europe and former Soviet countries in view of the growing business opportunities in these places. As such, an IPU would be set up in the Berlin ETO this year. As for the Middle East, she said that the Government also had spared no efforts in exploring business opportunities in this geographical region through close collaboration with TDC, which had been organizing trade missions to the Middle East. The Administration would also review and enhance the relevant promotion efforts in the Middle East as appropriate.

Investment facilitation measures - granting of business visas

22. Mr Andrew LEUNG expressed concern that despite the investment promotion efforts made by InvestHK, businessmen from many parts of the world, including Eastern Europe, Vietnam, Taiwan and Russia, had reflected their difficulties in obtaining business visas to visit Hong Kong. To cite some examples, he said that when he accompanied a group of businessmen to Vietnam last month, he was questioned by the Prime Minister of Vietnam for the difficulty in obtaining visas from Hong Kong. There were also cases in which Hong Kong businessmen had to go to Shenzhen to meet with their business partners who could not enter into Hong Kong due to visa problem. Since it was easier for visitors to obtain visas to go to the Mainland or Macau, Hong Kong might, as a result, lose its competitive edge. In this connection, he enquired whether any co-ordination would be made

by InvestHK with the relevant policy bureaux/government departments (B/Ds) for relaxation of the visa control measures.

Admin

23. DGIP advised that as an investment promotion agency, part of the role played by InvestHK was the advocacy role. Whenever problems were detected that would either inhibit existing investors or discourage prospective investors, InvestHK would take up the matter with the relevant B/Ds. For instance, concerns on the procedure for applying for business visas to Hong Kong had been reflected to the Security Bureau, international school places to the Education and Manpower Bureau and licensing of restaurants to the relevant B/Ds, etc. He assured members that InvestHK would continue to convey the difficulties, if any, encountered by visitors and investors to the relevant B/Ds for follow-up. At the request of Mr LEUNG, Acting PSCI undertook to follow up with relevant B/Ds on his proposal to facilitate the issuing of business visas to overseas applicants, and provide a progress report in two to three months' time.

Resources allocated to InvestHK

24. Noting that the review commissioned by the Efficiency Unit (EU) had concluded that InvestHK was operating at close to maximum capacity in terms of the number of projects it could handle while maintaining the current level of service quality with the existing resources, the Chairman sought clarification on what "maximum capacity" referred to, i.e. whether it denoted that there was no room for InvestHK's further expansion or whether there was not enough resources for InvestHK and hence its operation at close to maximum capacity.

25. In response, DGIP explained that the review was an independent consultancy study commissioned by EU for examining, inter alia, the cost-effectiveness of the work of InvestHK, such as whether InvestHK had made the best use of the additional resources allocated to it for investment promotion since 2003-2004. Having studied the reports on investment promotion in 1999 and 2000, the consultant remarked that with the level of resources given, InvestHK should be aiming at completing 200 projects per year and attaining a customer satisfaction rating of about 90%. Yet, InvestHK had actually completed over 240 projects per year, and the level of customer satisfaction attained was over 99%, which had exceeded the targets, with less resources than the consultant recommended that InvestHK should have been given. As such, the consultancy study concluded that InvestHK was performing well in a cost-effectiveness manner, and it was operating at close to maximum capacity with the existing resources in terms of the number of projects it could handle without compromising its service quality. He added that InvestHK had used the additional financial provision productively with a 100% growth in output. He pointed out that at present, InvestHK was pursuing about 600 live projects. Its output could hardly grow further without additional resources, or else its service quality could not be maintained. Nevertheless, he envisaged that if around 5 to 10% additional resources were allocated, InvestHK should be able to attain a 10 to 15% growth in output.

Relationship between InvestHK, ETOs and TDC

26. The Chairman said that at the meeting held on 18 April 2006 when InvestHK briefed the Panel on its work, members had remarked that consideration should be given to pooling resources of InvestHK, ETOs and TDC together for cost savings and synergy. In this connection, he noted that InvestHK had engaged 15 external consultant companies in different locations not covered by the existing IPU. Since TDC also had a number of overseas offices in many parts of the world, he enquired whether consideration could be given to engaging the overseas offices of TDC to undertake the work now performed by the external consultant companies. He was of the view that such an arrangement would not only ensure the best utilization of resources, the savings achieved could also be used for pursuit of more investment projects by InvestHK.

27. In response, DGIP explained that trade promotion was different from investment promotion. While trade promotion was to facilitate a willing buyer in finding a willing seller, promotion activities might take the forms of electronic communication, exhibitions, trade fairs, seminars as well as taking delegations to the markets concerned, and it might not be necessary for government officials to be involved. In respect of investment promotion, however, as investors had to set up physical presence in a city such as Hong Kong, during the investment promotion process, the investors might wish to have direct contact with government officials for reassurance of the operating environment in the concerned sectors. As such, he remarked that in large companies where there was distribution of duties between business development (i.e. market expansion) and trading, InvestHK and TDC had to approach different departments/personnel within the same company in order to achieve their respective missions. Nevertheless, he added that there was close co-operation between InvestHK and TDC, both at the headquarters and in overseas markets. For instance, at the headquarters level, the heads of both organizations would meet quarterly to discuss the opportunities for co-operation, such as joint promotion programmes with cities in the Pearl River Delta in which the promotion work would either be led by TDC or InvestHK and the other party would always be invited along. In separate promotion activities, both organizations would help to promote each other by including the respective information in their presentation materials. Moreover, a cross-referral mechanism between the two organizations had existed for some years and this had recently been enhanced.

28. Regarding the relationship between InvestHK and ETOs, DGIP explained that IPUs operating in ETOs were actually the integral part of those offices. He illustrated by examples that the geographical business plans were actually sent to the Heads of the ETOs who were also responsible for investment promotion. For instance, Mr Duncan PESCOD, Special Representative of Hong Kong ETO in Brussels, as well as his predecessor, were very keen on delivering speeches to businessmen with a view to arousing their interests on Hong Kong as a place to do business.

29. Acting PSCI supplemented that IPU were actually set up within the office premises of ETOs. Staff of IPU and ETO would provide assistance to each other on activities organized, such as exchanging client data, participating in conferences, delivering speeches and acting as event helpers, etc. She stressed that ETOs and IPU of InvestHK actually maintained a complementary and mutually beneficial relationship. Regarding TDC, she pointed out that TDC had a strong presence and a comprehensive business network in overseas markets. As such, ETOs had been collaborating with TDC's overseas representative offices to leverage on the latter's resources for organizing promotion activities. She emphasized that IPU of InvestHK, ETOs and TDC co-operated closely in different aspects to advance the economic interests of Hong Kong.

30. Mr SIN Chung-kai shared with the Chairman that at the previous Panel meetings, members had expressed concern on the possible duplication of resources among the many overseas representative offices of Hong Kong, such as those of InvestHK, ETOs, TDC, the Tourism Board as well as the two overseas offices of the Hong Kong Monetary Authority each in London and New York. In this connection, he noted that a study would be commissioned by the Government within the next few months to review the current strategy for promotion of inward investment into Hong Kong, including a review on the role and mission of InvestHK, etc. Since the arrangement of housing different overseas offices under one roof could provide convenience to visitors as they would be provided with one-stop services, and should be much more appreciated by visitors, he was of the view that representative offices of different government departments/organizations should, where possible, operate at the same office premises for provision of different services such as investment promotion services or tourism services, etc to visitors. Moreover, he remarked that as the additional financial provision allocated to InvestHK for investment promotion would come to an end in 2007-2008 and a study on, inter alia, the role and mission of InvestHK would soon be commissioned, it was high time to consider whether InvestHK should remain as a separate Government department or be subsumed under the Trade and Industry Department (TID) for cost effectiveness. In this regard, Mr SIN also sought information on the cost estimate for the consultancy study to be undertaken. The Chairman agreed with Mr SIN that there might be duplication of resources among the agencies, in particular InvestHK, ETOs and TDC. Noting that there were existing rental constraints that might render it not feasible to co-locate Hong Kong's representative offices, he urged the Administration to pursue, as far as possible, the renting of larger premises in the long run to accommodate all the overseas offices together so as to facilitate the provision of one-stop services by the various agencies to foreign visitors.

31. In response, DGIP remarked that TID did not have any overseas representative offices. He also clarified that all IPU were set up within the office premises of ETOs, and there was no duplication of resources in this regard. IPU and ETOs had always worked closely within the same office such that visitors approaching ETOs for information on doing business in Hong Kong would be introduced to IPU within the office. On the cost estimate for consultancy study

to be commissioned, Acting PSCI advised that the tendering exercise for selection of consultant was still underway. At the request of Mr SIN Chung-kai and the Chairman, Acting PSCI undertook to apprise the Panel of the cost of the consultancy study after the completion of the tendering exercise.

VI. Update on the No Fakes Pledge Scheme

(LC Paper No. CB(1)905/06-07(07) -- Paper provided by the Administration

LC Paper No. CB(1)905/06-07(08) -- Background Brief prepared by the Legislative Council Secretariat)

Briefing by the Administration

32. At the invitation of the Chairman, the Deputy Director of Intellectual Property (DDIP) briefed members on the Administration's observations as to whether reference could be drawn from the Quality Tourism Services (QTS) Scheme for improvement of the No Fakes Pledge (NFP) Scheme. He also updated members on the operation of the NFP Scheme.

33. In gist, DDIP said that, pursuant to members' suggestion made at the Panel meeting on 18 April 2006 that reference might be drawn from the QTS Scheme to further improve the effectiveness of the NFP Scheme, the Intellectual Property Department (IPD) had studied the QTS Scheme which was established by the Hong Kong Tourism Board (HKTB). He pointed out that the QTS Scheme and the NFP Scheme were basically different in nature, in that the former was a certification scheme under which a third party ascertained whether a merchant had achieved the prescribed standard of services before the merchant concerned would be certified as a QTS merchant, whereas the latter was a voluntary scheme which sought to encourage retailers to take pride in respecting intellectual property rights (IPR). Under the NFP Scheme, all retail merchants made, on their own accord, a pledge not to sell fake goods. The implementation of the NFP Scheme, therefore, relied on the good faith of member merchants in abiding by the Code of Ethics which was jointly drawn up by the issuing bodies and other relevant organizations. DDIP advised further that at present, there were altogether seven issuing bodies, namely the Hong Kong and Kowloon Electrical Appliances Merchants Association Limited, the Hong Kong General Chamber of Pharmacy Limited, the Hong Kong Record Merchants Association Limited, the Hong Kong Retail Management Association, the Chamber of Hong Kong Computer Industry, the Hong Kong Jewellers' and Goldsmiths' Association, and the Hong Kong Coalition for Intellectual Property Rights of the Federation of Hong Kong Industries. These issuing bodies were responsible for the approval and termination of membership in accordance with the Code of Ethics, whereas IPD would act as a co-ordinator of the NFP Scheme to provide administrative support to the issuing bodies and to take forward general promotion of the Scheme such as placing advertisements through different media like airport trolleys, etc.

34. DDIP highlighted further that under the QTS Scheme, participating merchants found to have breached the terms of the Scheme would have their QTS status terminated and their names disclosed to the public. However, if member companies of the NFP Scheme were involved in selling counterfeit or pirated goods, they would render themselves liable to civil and, in some circumstances, criminal actions. In this regard, he informed that under the Trade Descriptions Ordinance (Cap. 362), the maximum penalty for sale of counterfeit goods was imprisonment of 5 years and a fine of \$500,000, whereas under the Copyright Ordinance (Cap. 528), the maximum penalty for sale of pirated goods was imprisonment of 4 years and a fine of \$50,000 for each infringing copy.

35. Notwithstanding the difference in their nature, DDIP remarked that the operation of the QTS Scheme and that of the NFP Scheme shared some common features. The QTS Sub-committee would consider the records of complaints against the applicant merchants as provided by the Consumer Council and the Customs and Excise Department (C&ED) in assessing and approving new applications. An application would only be approved if no substantiated complaints were recorded in the preceding 12 months. Similarly, under the NFP Scheme, a retail merchant also needed to pass the complaint records test. A clean record (with no substantiated complaints from the Consumer Council and C&ED against the applicant in relation to the sale of counterfeit or pirated goods) within one year prior to its application for membership or annual renewal of membership was required.

36. Regarding the updated position on the operation of the NFP Scheme, DDIP said that the colour of the "No Fakes" stickers and tent cards for 2007 had been changed with the expiry date printed on them, so as to help consumers and visitors identify the retail merchants currently participating in the NFP Scheme. In future, the colour of the stickers and tent cards would also be changed every year for easy identification. Moreover, starting from August 2006, "No Fakes Pledge" leaflets were distributed through the Visitor Information and Services Centres of HKTb in order to promote the NFP Scheme amongst inbound visitors. To further improve the operation of the NFP Scheme, the issuing bodies would submit a report on the operation of the Scheme to IPD every six months starting from 2007 onwards to provide an account of any complaints received and operational difficulties encountered.

37. In this connection, DDIP informed that since its establishment in 1998, the NFP Scheme had gained support and recognition from various sectors in society. As such, cities in Guangdong Province, including Guangzhou, Dongguan, Shenzhen, Shantou, Zhuhai, Jiangmen, Hiuzhou, had recently launched similar programme. Moreover, the NFP Scheme had also earned the praise of some member economies attending the recent meeting of the Intellectual Property Expert Group under the Asia-Pacific Economic Cooperation; for instance, the Philippines remarked that the Scheme was a good model to be followed. Nevertheless, DDIP remarked that IPD would continue to maintain liaison with HKTb, and keep the NFP Scheme under review. It would also give consideration to any operational practices of the QTS Scheme found in the future to be of good reference value to

the NFP Scheme.

Discussion

Purpose of the NFP Scheme

38. Mr CHIM Pui-chung remarked that it was incumbent for the Government to prosecute retailers selling counterfeit or pirated goods. As such, he queried the purpose of launching the NFP Scheme which might give a wrong impression that the goods sold by retailers not participating in the Scheme were not genuine. Given that Hong Kong, as well as the Mainland, were often under attack for inadequate protection for IPR, and the implementation of the NFP Scheme was tantamount to admitting that not all local retailers were selling genuine goods, he urged the Administration to review the appropriateness of launching the Scheme.

39. In response, DDIP stressed that developed countries such as the United States also recognized Hong Kong Government's efforts afforded to the protection of IPR, and even hailed Hong Kong as a model for the Southeast Asia countries in this respect. As for the purpose of launching the NFP Scheme, he explained that it was rather a measure to educate and remind retailers to follow, as well as showcasing, their ethical practices. It therefore did not mean that retailers not participating in the Scheme were selling counterfeit or pirated goods as such kind of illicit practices would be liable to civil or criminal actions. As such, DDIP emphasized that the launching of the NFP Scheme was but the Government's enhanced effort to accord comprehensive protection for IPR. Since the Scheme could help nurture a mindset whereby retailers would take pride in complying with intellectual property legislation, seven cities in the Guangdong Province had begun to launch the "No Fakes" Pledge, and the Pledge would also be gradually extended to other cities in the Province.

40. Sharing the Administration's views, the Chairman also considered that retailers not participating in the NFP Scheme should not be regarded as selling counterfeit or pirated goods, as retailers were very mindful of the reputation of their companies and the quality of their goods which were fundamental to consumers' confidence towards them and hence consumers' patronage.

Implementation of the NFP Scheme

41. Mr SIN Chung-kai remarked that if retail merchants, irrespective of whether they were member companies of the NFP Scheme or not, were involved in selling counterfeit or pirated goods, they would nevertheless be subject to civil or criminal sanctions. In this connection, he recalled that a jewellery shop participating in the NFP Scheme had been detected for selling counterfeit jewellery some time ago. As such, he enquired whether inspections would be made to ensure that the goods sold by member merchants were genuine and hence the effective implementation of the Scheme.

42. In reply, DDIP affirmed that a jewellery company alleged of selling counterfeit jewellery was raid by C&ED in September 2005. The "No Fakes" sticker and tent card so issued to that company were immediately taken away, and the concerned issuing body also terminated the company's membership instantly. The company was convicted subsequently but the case was still pending appeal. DDIP stressed that as the purpose of the Scheme was to encourage retailers to pledge for selling genuine goods, the implementation of the Scheme, therefore, relied on the good faith of member merchants in abiding by the Code of Ethics. Moreover, C&ED had been maintaining close surveillance over suspected counterfeiting and piracy activities in the market, and the enforcement mechanism was operating well.

43. Mr SIN Chung-kai queried however as to whether it was effective for the NFP Scheme to operate purely on an honour system. He considered that inspection teams should be set up to conduct regular inspections on member merchants to ensure that those merchants were living up to their pledge as to sell genuine goods. In response, DDIP pointed out that as the NFP Scheme potentially covered all types of goods at the retail level, it would be very costly, if not impracticable, to appoint a third party to conduct inspection for verifying whether the goods sold by member merchants were genuine or not. The examination of a product to see if it was counterfeiting or pirated also required in-depth knowledge of various features of the product and the process of examination could be very complicated.

44. Concurring that the setting up of inspection teams for regular inspection would incur additional administrative expenses and hence additional resources for implementation of the Scheme, Mr SIN Chung-kai suggested, however, that consideration could be given to collaborating with brand name shops whose products were often counterfeited such that when inspection was made by C&ED on a member company, staff of the brand name shops could provide expertise advice as to whether the goods were genuine or otherwise. He was of the view that such an arrangement could enhance the effectiveness of the Scheme.

45. In response, DDIP remarked that the NFP Scheme had been implemented for more than eight years, during which there were only two cases where the membership of the merchants concerned was terminated, i.e. one involving the aforementioned jewellery shop and the other a dispensary for selling counterfeit pharmaceutical products. He stressed that it was the credibility of the member merchants and their respect for IPR, rather than enforcement actions, which attributed to the effective implementation of the Scheme. Given the limited resources for launching the Scheme and its effective implementation so far, he did not consider it necessary to change the mode of operation at the present moment by putting in place an inspection mechanism.

46. Noting that IPD, being a government department, had all along been providing administrative support to the issuing bodies and taking forward general promotion of the Scheme, the Chairman remarked that visitors and local consumers' trust towards the goods sold by member merchants was due to the Government backup of the Scheme. He was concerned, however, that if the goods sold by one of the member merchants were not genuine, it would jeopardize visitors and local consumers' confidence towards the Scheme which had been built up since its implementation in 1998. As such, he was of the view that the monitoring of the Scheme should be stepped up, and reference could be made to the arrangements under the QTS Scheme whereby unannounced visits would be made to ensure that the services of QTS merchants measured up to the standard required.

47. In response, DDIP reiterated that so far, there were two merchants whose membership was terminated due to non-compliance with the Code of Ethics under the NFP Scheme since its establishment in 1998. Concerning the second case which involved a dispensary alleged of selling counterfeit pharmaceutical products, he highlighted that although the dispensary was not convicted due to insufficient evidence, its membership was nevertheless terminated and its name deleted from the Scheme. As such, he stressed that there was close monitoring on member merchants' compliance with the Code of Ethics under the Scheme through the concerned issuing bodies. A hotline was also set up for enquiring further information regarding NFP and intellectual property protection. Moreover, C&ED would take prompt action against any shop suspected of selling counterfeit or pirated goods. DDIP considered that through effective partnership between the Government and the trade, as well as vigorous enforcement action taken by C&ED, the implementation of the Scheme was effectively monitored. He added that considering the level of resources allocated for implementation of the Scheme, i.e. around \$1.5 million per year which was mostly used for promotion of the Scheme, the result was indeed encouraging as there were only two isolated cases where the membership was revoked since the establishment of the Scheme in 1998.

48. The Chairman noted that the effective implementation of the NFP Scheme relied, to a large extent, on the self discipline exercised amongst member merchants as to uphold their pledge to sell genuine goods. However, he suggested that as the Scheme continued to expand and become popular in future, consideration should be given to seeking resources for some sort of monitoring on member merchants to ensure the successful implementation of the Scheme.

49. In response, the Deputy Secretary for Commerce, Industry and Technology (Commerce and Industry) reiterated that the NFP Scheme was not a certification programme. The implications of making inspections or unannounced visits to member merchants would need to be carefully considered. The presence of such an arrangement might lead visitors and local consumers to believe that the goods sold by member merchants were verified to be genuine (when in fact such verification was difficult of achievement). There were currently around 2 000 member merchants under the Scheme which covered a wide range of goods at the retail level. If inspections were to be made on a meaningful scale, in light of the vast array of goods sold by member merchants participating in the Scheme, huge

resources would have to be incurred. It begged the question of whether the policing resources required should be better spent elsewhere. In the final analysis, public confidence in the Scheme rested with the self discipline exercised by member merchants. The interest of upholding their companies' reputation (which in many cases took years to build up) provided the main driving force which motivated member merchants to abide by their pledge to sell genuine goods. DDIP added that in view of members' concerns for further improvement to the implementation of the Scheme, IPD would relay to the issuing bodies members' views and suggestions above for deliberation.

50. Summing up the discussion, the Chairman remarked that with the ongoing implementation of the NFP Scheme, more and more retailers would participate in the Scheme. The chance for member merchants involved in illicit dealings would increase and hence the chance for undermining the public's confidence in the Scheme. As such, he called on the Administration to take note of members' concerns and to consider seriously their suggestions for further enhancement of the effective implementation of the Scheme.

VII. Any other business

51. There being no other business, the meeting ended at 6:30 pm.

Council Business Division 1
Legislative Council Secretariat
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