

LEGISLATIVE COUNCIL PANEL ON FINANCIAL AFFAIRS

Supplementary Information on Hong Kong Harbour Fest

This paper provides an account of the relevant issues relating to the Harbour Fest, and addresses the questions raised by Hon Sin Chung-kai in his letter of 24 October 2003 to the Chairman of the Legislative Council Panel on Financial Affairs.

Background

2 In the paper provided to the Panel prior to the special meeting on 11 October 2003, the Administration recalled the background underlying the large-scale publicity and promotional campaign launched by the Government in the wake of the outbreak of Severe Acute Respiratory Syndrome (SARS) earlier this year. The paper also set out the objectives and the strategic approach of the campaign, and provided an account of the operation of the \$1 billion commitment for the campaign, which was approved by the Finance Committee on 30 May 2003.

3 From the outset, the Administration publicly stated that the economic relaunch campaign would require a joint effort involving the community at large, the business sector and the Government. The Administration publicly welcomed input from the entire community. Many community-spirited bodies responded enthusiastically with creative ideas and actions. One example is the proposal from the American Chamber of Commerce in Hong Kong (AmCham) to organise a large-scale international entertainment festival at Tamar, which subsequently became known as the Harbour Fest. The initiative came at the time when our economy was still reeling from the impact of the SARS outbreak and the morale of the community at large was very low.

PART I : Process of Organisation & Implementation

Conceptual Planning & Funding Arrangement

4 The key elements of AmCham's proposal included the organisation of a variety of entertainment events by international, Asian and local artists over four consecutive weekends from mid-October to early November, using the

harbour and the attractive skyline of our cosmopolitan city as the backdrop; and the production of a video on performance highlights for extensive TV broadcast in the USA and other key markets overseas.

5 The proposal was presented by AmCham to the Economic Relaunch Working Group (ERWG) on 2 July 2003. The ERWG, comprising only officials and chaired by the Financial Secretary, was charged with drawing up a substantive programme for the economic relaunch campaign. ERWG endorsed AmCham's proposal in principle, subject to further examination of the proposed budget. It formally approved the proposal at the subsequent meeting on 12 July 2003 for the Government to underwrite the event in the form of a sponsorship fee not exceeding \$100 million of the total net deficit.

6. The Economic Relaunch Strategy Group (ERSG), comprising the same officials together with non-official participation, was also kept informed of the development throughout since the idea of the Harbour Fest was first reported at the meeting on 20 June 2003. AmCham representatives also gave an update report to ERSG on 1 August 2003 and a full presentation on 1 September 2003. Members of ERSG were generally supportive of the initiative, having regard to the stated objectives of promoting Hong Kong as a safe place to visit both for business and leisure, lifting the morale of the community and fostering the sense of normalcy.

Contractual Relationship

7 Other than the lease on the Tamar site, the Government has entered into three legally binding memoranda of understanding (MoU) and one comprehensive contract with AmCham, which set out the sponsorship arrangement for the Harbour Fest and the contractual relationship between the two parties. Under the contract, AmCham is responsible for planning, organising, and managing the operation and implementation of the Harbour Fest event in accordance with commercial principles and having regard to the overall objectives of the festival.

8 As a major sponsor of the event, the Government's role is primarily to ensure that the main deliverables (series of world class concerts, production and broadcast of the one-hour TV highlight special) are fulfilled and the overall objectives are met. In addition, it maintains close liaison with the organiser,

through Invest Hong Kong (InvestHK), and is consulted on key matters relating to the festival, specifically on the development of the programme line-up, the pricing strategy for the tickets, the venue set up and the overall budget. Whatever changes were proposed and approved, the Government sponsorship would be capped at \$100 million of the net deficit, and lower if the actual shortfall was below that sum. InvestHK is also responsible for coordinating the support and facilitation by various government departments, for example, facilitating the lease of the Tamar site by the Lands Department to the organiser, liaising with relevant authorities for the issue of various licences and permits, crowd control and temporary traffic arrangements on the periphery of the venue, etc. The Government also renders assistance and advice to AmCham from time to time.

Ticketing Arrangement

9 As the organiser, AmCham is responsible for the pricing and distribution of all tickets. It has commissioned the Hong Kong Ticketing as the ticketing agent. Tickets were open for sale at the various Hong Kong Ticketing outlets, including Tom Lee, Hong Kong Convention & Exhibition Centre, Hong Kong Academy for Performing Arts, Hong Kong Arts Centre, the Electronic Service Delivery Kiosks, and a dedicated box office at the Citic Tower. Booking could also be made online on the Hong Kong Ticketing website or by telephone at the ticketing hotline. The first batch of tickets was put on sale starting 12 September 2003.

10 AmCham also administered a corporate ticket office and accepted corporate bookings. A fixed allotment had been set aside for corporate bookings on a priority purchase basis. Booking could be made either by email or by fax.

Promotion & Publicity

11 AmCham has engaged a number of public relations, media and advertising agencies for the promotion and publicity of the Harbour Fest event. The information provided by AmCham shows that it has budgeted over \$6 million for promotion, marketing and publicity expenses. Most of this amount was spent on print advertisements in various local Chinese and English language newspapers, advertisements on local radio and TV stations; short

videos for broadcast on TV stations reaching overseas audiences; posters and flyers; and a dedicated website in conjunction with Yahoo. In addition, the organiser also obtained sponsorship in the form of some promotional and marketing services from media companies.

12 AmCham also undertook a number of radio and TV interviews to publicise the festival. Its ticketing agent was also promoting the event on its website.

Financial Arrangement

13 The payment of Government sponsorship fee was made in four instalments. Advance payment of \$25 million each was made upon execution of the three MoUs on 31 July 2003, 29 August 2003 and 3 October 2003 respectively. The fourth and final payment, being the balance of the sponsorship fee, was made in accordance with the relevant provision in the sponsorship agreement on 15 October 2003.

14 Upfront payments were required to secure many of the artists to appear for the Harbour Fest. In addition, a number of costs, such as erecting the stage and for engaging certain contractors, needed to be paid before any revenue came in. When revenue from ticket sale and commercial sponsorship started to come in, it would be used to meet the various expenses and to offset the advance payment.

15 AmCham conducted the business of organising the whole Harbour Fest event through a special purpose vehicle (SPV), the Red Canvas Ltd, which is provided in the sponsorship agreement. It is an established commercial practice and is purely for operational convenience. Owned by members of AmCham, the SPV seeks to shield AmCham from all financial liability to any third party arising from the commercial activities of organising the Harbour Fest. AmCham and the SPV entered into a legally binding MoU, setting out the purpose, the roles and responsibilities of the SPV in relation to the Harbour Fest. However, nothing in this agreement would relieve AmCham's responsibility to the Government, and Government's sponsorship is capped at \$100 million. The SPV shall maintain a separate book of accounts in relation to the Harbour Fest event. All expenditures are incurred in accordance with commercial principles within the scope of the budget

agreed between AmCham and the Government. A full set of audited accounts will be submitted to the Government not later than 28 February 2004.

16 The Government's role in the Harbour Fest event is primarily to ensure that the main deliverables are fulfilled and the overall objectives are met. It maintains an overview of the preparation of the event by the organiser but does not seek to micro-manage the detailed planning and organisation work, which is a contracted matter for AmCham. We do not have comprehensive knowledge of every detailed arrangement throughout the organisation and implementation process.

PART II : Specific issues raised by Hon Sin Chung-Kai

The Rolling Stones Event

17 The Administration acknowledges that the incident relating to the dropping out and subsequent reinstatement of the Rolling Stones had aroused wide public concern. On 17 October 2003, the Administration provided a chronology of events leading up to the signing of the contract between AmCham and the Rolling Stones management to the Panel (copy at **Annex**).

18 We understand that AmCham took the decision to react positively to the belated and irregular form of notification of acceptance by the Stones entirely out of commercial judgement. It would have been fully legitimate for AmCham to refuse acceptance of the contract and stick to its earlier decision by indicating to the Rolling Stones management that it had already taken the contract off the table because of failure on the part of the Stones management to respond by the stipulated deadline. AmCham eventually decided to fulfil the Stones contract because it considered that their shows would be a fitting climax to the Harbour Fest, as many in the community would welcome a chance to see the group performing live in Hong Kong.

Withdrawal of Acts

19 The Administration has already provided a detailed account on the pulling out of the three local singers at one point in time and their subsequent reinstatement in the festival, when replying to a question raised by a Member of the Legislative Council on 5 November 2003. In short, the original and subsequent decisions were taken in light of the constraints posed by the production logistics and the timing relating to the international acts.

20 The Administration acknowledges that putting together one of the largest – if not the largest -- popular musical festivals in Asia in no more than 100 days has been a huge challenge for the organiser. The implementation schedule was extremely tight, and involved an iterative process of negotiation with many international, regional and local artists. We note that on a few occasions in the planning stage, some artists had withdrawn from the shows. For example, the Korean groups “S” and “Fly to the Sky”, who were originally scheduled for the Asian-all-Star show on 31 October 2003, were subsequently replaced by another two Korean acts, “Lee Hyo-Ri” and the “Seven” who appeared in the shows on 30 and 31 October 2003 respectively. Those audience members who had bought tickets but felt unable to attend the show because of the withdrawal of some specific artists were all entitled to full refund of their tickets.

21 Separately, one of the three scheduled acts, namely the Atomic Kitten, withdrew from the show because a member of the group had fallen sick and was unable to perform in Hong Kong. Having consulted the Government, AmCham decided to go ahead with the show with the remaining two groups but making the tickets free for all. The Administration has already explained the rationale behind the organiser’s decision when replying to a question from a Member of the Legislative Council on 5 November 2003. Again, audience members who had bought tickets for the show could both enjoy the performance and get a full refund of their tickets.

Distribution of Free Tickets

22 AmCham has given some 1,500 free tickets for the opening show to the Hospital Authority for distribution to the frontline staff, as a token of recognition for their valiant efforts in combating SARS. A total of 4,200 free tickets to the two Family Festival shows were also distributed through the Home Affairs Department to a number of charitable and social services organisations. Another 2,000 tickets were similarly distributed through the Community Chest.

23 According to AmCham, some bonus tickets for the three shows on the first weekend of the Harbour Fest were distributed to commercial sponsors who had already signed up to sponsor the festival in cash or in kind, over and above what they were entitled to as laid down in their sponsorship deal. We

understand that this arrangement is in line with the usual industry practice to ensure a good turn out for the opening acts, which helps to inspire the spirit of the performing artists and to promote the subsequent shows. In addition, some tickets (ranging from 50 to 100) were also reserved for the artists performing in the shows for their disposal.

24 The Government has not yet received from AmCham the total value of the free tickets distributed for the relevant shows. Under contract, the organiser is required to submit to the Government a full set of audited accounts in relation to the Harbour Fest, setting out detailed analysis of the revenues and expenditures no later than 28 February 2004.

Sponsorship Arrangement

25 The Government sponsorship for the festival is capped at \$100 million of the total net deficit. AmCham needs to consult the Government on material changes to the proposed budget. However, it is not required to seek Government's prior agreement to every single item of expenditure within the scope of the approved budget, as to do so would substitute Government's decision for the organiser's commercial judgement, thus undermining the sponsorship arrangement. After the close of accounts, AmCham is required under the sponsorship agreement to submit a full set of audited accounts to the Government not later than 28 February 2004.

26 To update Members of the latest financial position, a provisional statement of the out turn of revenue and expenditure provided by AmCham in relation to the Harbour Fest, which is subject to audit, will be provided to the Panel once it is available.

Way Forward

27 The Administration is aware that there have been a number of organisational shortcomings, particularly in the beginning days of the Harbour Fest; and calls for greater transparency in various aspects of AmCham's organisation of the Harbour Fest event. We also know that there are questions concerning the Administration's role in the Harbour Fest event. We have decided to establish a panel of inquiry on the Harbour Fest event to be appointed by the Chief Executive. The terms and reference and membership of this panel will be announced shortly. The panel will report its findings to the

Chief Executive, and the report will be released to the public.

Invest Hong Kong
November 2003

Chronology of Events Leading Up to the Signing of Rolling Stones Contract

**Attachment to Letter of 17 October 2003
from DGIP to the LegCo Panel on Financial Affairs**

Other than the lease on the Tamar site, the Government is a party to only one contract, namely the one with AmCham, on the entire HarbourFest event. A copy of this contract will be provided to Members separately in response to another letter from the Panel on the Harbour Fest event. The contract between the Government and AmCham was preceded by a number of interim memoranda of understanding.

2. All contracts with artists, contractors and other parties relating to the Harbour Fest event are entered into by AmCham and the concerned parties.

3. The schedule of events with respect to the Rolling Stones (RS) participation in Harbour Fest is as follows (all dates/times quoted are Hong Kong unless otherwise indicated):

2 nd half August	AmCham agent and RS management reached broad agreement on performance by RS (including fee, approximate performance dates, etc.) through e-mails/telephone conversations.
3 September	AmCham announced they were finalising negotiations with RS management for the band to appear on 7 and 9 November.
September	AmCham agent and RS management finalised detailed contract documents [#] .
1 October	Completed contract documents were ready for signature by both sides.
2 October	AmCham signed contract documents and forwarded them to RS management. Around the same time, AmCham agent forwarded to RS management a 50% deposit. Letters of Credit for

[#] The contract is actually a set of three separate contracts.

the balance were also forwarded subsequently.

- 3-8 October RS management failed to sign contract documents, declined to give approval for AmCham to announce firm performance dates of RS in Hong Kong and to put tickets on sale.
- 8 October AmCham met DGIP. Meeting concluded Hong Kong should now take a tough stand, and if necessary be prepared to take contract off the table. DGIP, upon invitation, joined AmCham agent in late night conference call with RS management. Hong Kong side explained timing constraints at its end. RS management confirmed Hong Kong deal was settled, but problems remained with their proposed RS concerts elsewhere and these must be resolved before Hong Kong performance could be confirmed. Hong Kong side pressed RS management for firm answer no later than midnight next day and gave notice that failure to meet this timetable would mean the whole deal was off.
- 9 October Another late night conference call between AmCham agent, DGIP and RS management. RS management said they were working very hard to finalise signatures of contract documents at their end. AmCham agent and DGIP told RS management that with effect from midnight (by then only a short time away), the contract should be considered "off the table" and the Hong Kong side would confirm this in writing the next day .
- 10 October AmCham group met, DGIP also present, and confirmed decision to pull contract. AmCham agent formally informed RS management by email of Hong Kong's position.
- 13 October Reuters story quoted RS tour director Michael Cohl as saying RS performance in Hong Kong

would go ahead.

- 14 October
- AmCham group and DGIP met and agreed to entertain RS position provided written confirmation from RS management was received that day, that tickets could go on sale on 15 October, and that RS would lend special assistance to marketing effort to help make up for lost time.
 - RS management confirmed in writing that RS performance dates in Hong Kong could be announced, that tickets could be put on sale and that contract documents would be signed by them during their working day (Toronto time) and sent immediately.
- 15 October
- Contract documents, signed by RS management, arrived. Tickets went on sale in Hong Kong.