

立法會
Legislative Council

LC Paper No. CB(1)2777/08-09
(These minutes have been seen
by the Administration)

Ref : CB1/PL/EDEV/1

Panel on Economic Development

Minutes of special meeting
held on Thursday, 16 July 2009, at 10:45 am
in the Chamber of the Legislative Council Building

- Members present** : Hon Jeffrey LAM Kin-fung, SBS, JP (Chairman)
Hon Starry LEE Wai-king (Deputy Chairman)
Hon Albert HO Chun-yan
Dr Hon David LI Kwok-po, GBM, GBS, JP
Hon Fred LI Wah-ming, SBS, JP
Hon CHAN Kam-lam, SBS, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon Albert CHAN Wai-yip
Hon Vincent FANG Kang, SBS, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon WONG Ting-kwong, BBS, JP
Hon Ronny TONG Ka-wah, SC
Hon CHIM Pui-chung
Hon Paul CHAN Mo-po, MH, JP
Hon IP Wai-ming, MH
Hon Mrs Regina IP LAU Suk-ye, GBS, JP
Hon Paul TSE Wai-chun
Dr Hon Samson TAM Wai-ho, JP
- Members absent** : Hon Emily LAU Wai-hing, JP
Hon Tanya CHAN
- Public officers attending** : Miss Margaret FONG, JP
Commissioner for Tourism

Mrs Laura ARON
Assistant Commissioner for Tourism

**Attendance by
invitation**

: Travel Industry Council of Hong Kong

Mr Ronnie HO
Chairman

Mr Alvin WONG
Independent Director

Mr Joseph TUNG
Executive Director

Tiglion Travel Services Company Limited

Mr Peter HUNG
Managing Director

Hong Kong Association of Registered Tour
Co-ordinators

Mr Howard CHAN
Vice Chairman and Honorary Secretary

Hong Kong Association of Travel Agents

Mr Michael WU
Chairman

Hong Kong Outbound Tour Operators' Association
Limited

Mr Peter KONG Pak-cheung
Chairman

Hong Kong Inbound Tour Operators Association
Limited

Mr HAU Suk-kei
Chairman

The Federation of Hong Kong Chinese Travel Agents
Association

Mr Ricky TSE
Chairman

Hongkong Japanese Tour Operators Association

Mrs Gianna HSU
Chairman

Hong Kong Inbound Travel Association

Mr Paul LEUNG
President

Hong Kong Taiwan Tourist Operators Association

Mr KAI Chuen-kam
Chairman

Hong Kong Tourism Industry Employees General Union

Ms LEUNG Fong-yuen
Secretary-General

Hong Kong Association of China Travel Organisers

Mr CHAN Lup-chi
Secretary General

Consumer Council

Ms Connie LAU
Chief Executive

Ocean Travel Limited

Mr TSUI Tsan-fai
Manager

Hong Kong Travel Agent Owners Association Limited

Mr Freddy YIP
Chairman

International Chinese Tourist Association Limited

Mr Charlie FOO
Vice Chairman

Mita Travel Agency Limited

Mr CHOW Chi-wing
Director

Society of IATA Passenger Agents

Mr Paul ZIMMERMAN
Executive Committee

Pro ABC Tour

Mr BOW Kwok-wai
Manager

Clerk in attendance : Ms Debbie YAU
Chief Council Secretary (1)6

Staff in attendance : Ms Angel SHEK
Senior Council Secretary (1)1

Ms Amy LEE
Senior Council Secretary (1)8

Ms Debbie SIU
Legislative Assistant (1)9

Action

I Operation of Travel Industry Council of Hong Kong
(LC Paper No. CB(1)2242/08-09(02) - Administration's paper on operation of the Travel Industry Council of Hong Kong

LC Paper No. CB(1)2242/08-09(03) - Paper on the Travel Industry Council of Hong Kong prepared by the Legislative Council Secretariat (Background brief)

LC Paper No. CB(1)2270/08-09(02) - Paper provided by the Travel Industry Council of Hong Kong (Chinese version only)

At the invitation of the Chairman, the Clerk responded to the enquiry of Mr Abraham SHEK about the purpose of the meeting and said that at the meeting on 22 June 2009 when the Panel considered the Administration's proposals to, inter

alia, suspend the collection of the Travel Industry Compensation Fund (TICF) Levy, members raised concerns about the operation of the Travel Industry Council of Hong Kong (TIC) and the levy to TIC. They agreed to hold a special meeting to meet with the Administration and deputations on the matter. The Chairman opined that TIC's operation was related to tourism and regulation of the travel trade, and it was appropriate for the Panel to discuss issues of public concern such as the subject in question.

Presentation by the deputations

2. The Chairman welcomed deputations attending the meeting and invited them to present their views.

Tiglion Travel Services Company Limited (TTSCCL)
(LC Paper Nos. CB(1)2211/08-09(01) & CB(1)2289/08-09(01))

3. Mr Peter HUNG, Managing Director, TTSCCL said that TTSCCL was a TIC member. Referring to Articles 11, 104, 105 and 160 of the Basic Law of the Hong Kong Special Administrative Region, he urged the Government to uphold the Basic Law and repeal the parts of the Travel Agents Ordinance (Cap. 218) (TAO) which had contravened this Law. Mr HUNG opined that the membership of TIC as a requirement to obtain a licence from the Registrar of Travel Agents had violated Article 27 of the Basic Law, which stipulated, among others, the rights of Hong Kong residents in the freedom of association. He considered that the TIC levy had contravened Article 105 of the Basic Law as the levy was made without compensation to the travel agents.

Hong Kong Association of Registered Tour Co-ordinators (HARTC)

4. Mr Howard CHAN, Vice Chairman and Honorary Secretary, HARTC pointed out that most members of the TIC Board of Directors (the TIC Board) were executives and owners of travel agencies who might have conflict of roles when taking part in the disciplinary hearings of cases involving tourist guides suspected of violations of the TIC code of conduct for tourist guides. To enhance justice and fairness in judgment, he suggested an independent and professional body be set up for conducting the disciplinary hearings in question.

Hong Kong Association of Travel Agents (HATA)

5. Mr Michael WU, Chairman, HATA declared that he was a trade director of the TIC Board, the convenor of the Inbound Committee and member of various TIC committees. He opined that the role of TIC, as a middle man to balance and protect the interests of the trade and consumers as well as settling their disputes, was widely recognized by the travel sector and tourists. To enhance fairness and impartiality in its operation, 41% of the TIC Board members were non-trade independent directors who provided professional advice on TIC matters. He said that TIC's operation was subject to public scrutiny through the mass media.

Hong Kong Outbound Tour Operators' Association Limited (OTOA)

6. Mr Peter KONG, Chairman, OTOA declared that he was a trade director of the TIC Board. He observed that TIC had strived to maintain justice and impartiality in regulating the industry and settling disputes. In his view, TIC had a broad basis of participation by its members, and there were sufficient channels for them to express their views, such as at the seminars organized by TIC or through the Association Member representatives at the Board meetings. He understood that some industry players who had violated the TIC codes and directives held grievances at the disciplinary actions taken against them. However, Mr KONG pointed out that these codes and directives had been thoroughly discussed at the committee level before they were endorsed by the TIC Board. As non-trade directors were involved in the decision-making process in the Board, he assured Panel members that the TIC's regulatory system for the industry was open and fair.

Hong Kong Inbound Tour Operators Association Limited (ITOA)

7. Mr HAU Suk-kei, Chairman, ITOA declared that he had been the Vice-Chairman of TIC from 1991 to 1997, and Chairman from 1997 to 2000, whereas he was currently a member of the Outbound Committee of TIC. He considered that TIC was entrusted with too much power as it was responsible for both formulating and enforcing the codes and guidelines for the travel industry. In particular, Mr HAU opined that the penalties imposed by TIC on its members found to have violated TIC rules were too heavy. By way of illustration, if a tourist guide failed to timely renew his pass, the travel agency concerned would be fined \$16,000. He opined that TIC's operation was not as transparent and open as its Board members had claimed, in particular as TIC members had to keep confidential the discussions at the TIC Board or committee meetings. It appeared to him that there was a problem of favouritism associated with TIC's appointment of Board and committee members.

The Federation of Hong Kong Chinese Travel Agents Association (FHCTA)

8. Mr Ricky TSE, Chairman, FHCTA considered that TIC had proven its value of existence as it could strike a balance of interests between the trade and consumers. While appreciating the voluntary contribution made by the TIC Board members, he opined that there was room for improvement in the transparency of TIC's operation, such as by allowing its members to attend the TIC Board meetings as observers. Sharing Mr HAU Suk-kei's view that TIC had too much power, Mr TSE suggested TIC enhancing its recognition by collaborating more closely with the Legislative Council Member representing the travel sector in taking forward measures to assist the industry.

Hongkong Japanese Tour Operators Association (HJTOA)

9. Mrs Gianna HSU, Chairman, HJTOA declared that she was a trade director of the TIC Board and the convenor of the Outbound Committee. She said that HJTOA generally recognized the role and work of TIC. In her observation, TIC

had made important contributions to enhance the development of the travel trade and it had handled disciplinary cases in a fair manner by laying down clear guidelines for the conduct of relevant hearings. For example, the name of the alleged travel agency would be concealed during the hearing and Board member who had potential conflict of interests with the alleged travel agency would not be invited to be a member of the disciplinary panel. In respect of the penalties to be imposed on TIC members, Mrs HSU said that the type of penalties and level of fines had clearly been set out for the disciplinary panel's reference and would be imposed in accordance with the violation record of the TIC member concerned. She could not recall any case in which the maximum penalty level was imposed for first violations. In her view, TIC had catered for the changing needs of the travel industry, as illustrated by the setting up of various committees to handle specific matters, and enhance the business environment of the trade. On the concern about the requirement for a travel agency to join one of the Association Members under TIC prior to joining TIC, she said that HJTOA was open-minded as to whether this should be reviewed.

Hong Kong Inbound Travel Association (ITA)

10. Mr Paul LEUNG, President, ITA declared that he was a TIC Board member for four years in the past and currently a member of the Inbound Committee. He pointed out that with the implementation of the Travel Agents (Amendment) Ordinance 2002, all inbound travel agents providing travel services for overseas and mainland visitors were required to apply for the travel agents licence. This had enhanced the protection of the interests of travel agencies and consumers, and handling of related complaints. For example, the introduction of the 180-day refund measure under the "Refund Protection Scheme (Registered Shops) for Mainland China's Inbound Tour Group Shoppers" had effectively boosted the tourists' confidence in Hong Kong tourism services. The setting up of a Tourist Guide Accreditation System in 2004 had maintained a high standard of professionalism among tourist guides within the industry. Besides, TIC had closely liaised with local and overseas travel-related agencies and authorities to promote collaboration and business opportunities. Mr LEUNG stressed that TIC had provided its services without any Government subvention. While there was room for improvement in its operation, he believed that TIC would continue to serve the interests of the travel trade.

Hong Kong Taiwan Tourist Operators Association (TTOA)

11. Mr KAI Chuen-kam, Chairman, TTOA declared that he was a director of the TIC Board and TTOA was an Association Member of TIC. He stressed that while TIC's committees would discuss specific issues about the industry, all decisions on major policies were essentially made by the Board. He said that TIC delivered a wide spectrum of travel-related services, such as issuing guidelines and codes of conduct for regulating the travel trade, handling consumers' complaints and compensation matters, collecting the levy for the TICF, training and licensing of tour escorts and tourist guides. Mr KAI said that the 12 Government-appointed independent directors in the TIC Board were professionals of different fields while

the convenors of five TIC committees which were responsible for disciplinary matters related to travel agents, tourist guides and tour escorts were appointed from among non-trade independent directors. Like other companies incorporated under the Companies Ordinance (Cap. 32), TIC's financial statements had to be audited by a qualified accountant each year. He considered the current system of TIC comprehensive yet it would need to make continuous improvements in accordance with changes in the business environment.

Hong Kong Tourism Industry Employees General Union (HTIEGU)
(LC Paper No. CB(1)2211/08-09(02))

12. Ms LEUNG Fong-yuen, Secretary-General, HTIEGU pointed out that of the 29 members of the TIC Board, eight were member-elected but only owners, and not employees of travel agencies had the right to vote in the election. As such, the interests of the employees were not adequately represented and protected. Referring to the prevalence of illegal employment of tourist guides and tour escorts and other malpractices in the trade, Ms LEUNG said that TIC had not addressed the problems in spite of repeated requests from HTIEGU and other stakeholders. She was worried that the prospect of job opportunities for employees in the travel trade would continue to worsen.

Hong Kong Association of China Travel Organisers (HACTO)

13. Mr CHAN Lup-chi, Secretary General, HACTO said that as an industry self-regulatory body, TIC had operated successfully and kept up with times, receiving wide recognition of its role and regulatory measures among the travel trade. Highlighting the increasing scope of TIC's work and services, Mr CHAN pointed out that TIC had aptly set up more committees to deal with specific issues of the travel industry. It had also maintained close liaison with overseas travel-related organizations and enhanced the image of the Hong Kong travel sector. For example, TIC had successfully cooperated with the relevant Mainland authorities to combat the problems arising from "zero-fare" or "negative-fare" tours and unscrupulous sales practices associated with forced shopping. Mr CHAN called upon Panel members and the travel trade to adopt an objective and fair perspective in assessing TIC's operation.

Consumer Council (CC)
(LC Paper No. CB(1)2270/08-09(01))

14. Ms Connie LAU, Chief Executive, CC said that protecting the interests of travelling consumers was an integral part of the work of CC, which included disseminating information to visitors concerning goods and services, giving views on policy matters related to consumers' interests and handling their complaints. She said that CC had been working closely with relevant government bodies and trade associations to accomplish the tasks through a multi-pronged approach. There was a cooperation arrangement between TIC and CC whereby CC would refer complaints against travel agents to TIC for follow-up. In 2008, CC had referred a total of 623 such complaints to TIC for further action. Of these

complaints, about 50% were related to complaints against travel agents and tours while the remaining complaints were related to forced shopping. As for the self-regulatory regime, CC considered that it should be operated under three principles, viz the objective of regulation was to protect public interest; its operations should be effective; and its regulatory rules should be sufficiently flexible to cater for rapid changes in the business environment and in consumer behaviour. She stressed that it was imperative for TIC to act as a transparent and highly accountable administration of the self-regulatory scheme.

Ocean Travel Limited (OTL)

15. Mr TSUI Tsan-fai, Manager, OTL expressed concern about the representativeness of TIC, given that only owners of travel agencies could participate in TIC's operation. He was concerned that TIC was endowed with too much power and was not under the jurisdiction of the Ombudsman. As such, there was no channel for the aggrieved travel trade, in particular small operators, to lodge complaints against TIC and redress grievances. Mr TSUI suggested that TIC should be monitored by a public body to enhance its accountability.

Hong Kong Travel Agent Owners Association Limited (TAOA)
(LC Paper No. CB(1)2242/08-09(01))

16. Mr Freddy YIP, Chairman, TAOA declared that he was a member-elected director of the TIC Board. In view of the importance of tourism as one of the four pillars of the Hong Kong economy, he pointed out that it was essential to have an organization like TIC to represent travel agencies and liaise with other travel-related sectors. While agreeing there was room for improving TIC's operation, he opined that the issues involved were mainly operational, which could be resolved without resorting to dissolve TIC or replace it by another regulatory body. He observed that the Government-appointed independent directors of the TIC Board had provided valuable input in improving the management and transparency of TIC. Mr YIP believed that with the launching of further liberalization measures under CEPA (i.e. Mainland and Hong Kong Closer Economic Partnership Arrangements) in relation to the tourism industry and their pilot implementation in Guangdong, the business opportunities for the travel trade in the Mainland would be enhanced.

International Chinese Tourist Association Limited (ICTA)

17. Mr Charlie FOO, Vice Chairman, ICTA said that while he agreed that TIC should continue to collect the TIC levy to cover its operational expenses, he however considered that the membership fee of TIC should be reduced or waived to alleviate the burden of operating cost on the travel agencies and help them ride over the difficult times. As for the transparency of TIC, he opined that it was necessary to keep the deliberations at the Board meetings confidential before the Board had arrived at any resolution, otherwise there would be confusion in the dissemination of information. Nevertheless, important decisions and reports of the Board's monthly meetings were made available on the TIC website for

members' reference.

Mita Travel Agency Limited (MTA)

18. Mr CHOW Chi-wing, Director, MTA said that it appeared to him that TIC had focused its efforts to protect the interests of consumers, but allocated limited resources to assist the travel trade. He suggested that more resources be deployed for training trade members and enhancing the business environment for the industry.

Society of IATA Passenger Agents (SIPA)

19. Mr Paul ZIMMERMAN, Executive Committee, SIPA said that SIPA supported the principles of self-regulation for the travel industry provided under the Travel Agents (Amendment) Ordinance 1988. However, in view of the inadequacy and ineffectiveness of TIC as a self-regulator and to avoid conflict of interests, SIPA considered it more appropriate for TIC to serve only as a trade representative with voluntary membership to promote quality services of the trade, while CC would continue with its role to protect the interests of consumers and the Travel Agents Registry (TAR) to regulate the travel agencies. SIPA urged that the Government and TIC should address the concern that the amount of levies collected by TIC from outbound and inbound travel agents should reflect more equitably the scope and proportion of TIC services offered to them respectively. In addition, SIPA suggested that the TIC Levy should be suspended to help reduce the cost burden on travel agencies. To enhance impartiality and transparency of TIC's operation, SIPA considered it more appropriate that the Chairman of TIC should be a non-trade independent member and the minutes of its Board and committee meetings should be made available to the public.

Pro ABC Tour (PAT)

20. Mr BOW Kwok-wai, Manager, PAT considered that while making contributions to the industry, TIC failed to provide a fair and open channel for its members to participate in its operation. In particular, not all TIC members were allowed to attend its Board meetings as observers and they were only informed of the outcome of discussion after the meetings. Referring to the recent complaints lodged with CC against the "bunching approach" in the purchase of travel insurance practised by some travel agencies and the prevalence of unaccredited tourist guides in the conduct of inbound tours, Mr BOW opined that TIC had not fulfilled its regulatory role and protected the interests of the travel trade effectively.

21. Having noted deputations' views, Mr Ronny TONG remained concerned about the purpose of the meeting. It appeared to him that there were no key issues about TIC's operation that warranted imminent rectification. He requested the deputations to highlight their main concerns about TIC's operation. At the invitation of the Chairman, Mr Peter HUNG of TTSC said that the statutory requirement of TIC membership for obtaining a travel agent licence and the collection of TIC levy were unreasonable arrangements. He considered that the

Government could take over the regulatory role of travel agents from TIC.

22. Highlighting tourist guides were subject to accreditation system rather than licensing as referred by some directors of the TIC Board, Mr Howard CHAN of HKARTC expressed concern about the effectiveness of TIC in playing the self-regulatory role for the travel industry. Mr TSUI Tsan-fai of OTL opined that more supervision and transparency were desired in the operation of TIC.

23. Mr Paul Zimmerman of SIPA criticized that the self-regulation of the travel industry was futile given the vested interests of most TIC Board members. He doubted the efficacy of Government officials in monitoring TIC's operation as they could not take part in the discussion at the Board meetings. Mr HAU Suk-kei of ITOA urged that the representation of TIC be broadened and a mechanism put in place to govern the succession of its executives (e.g. the Executive Director). Ms Connie LAU of CC said that it was imperative for TIC to act not only as a general trade association but also as a transparent and highly accountable administration of the self-regulatory scheme tasked with safeguarding public interest. CC considered it an opportune time for the Government to review the issue of the self-regulatory structure.

Preliminary response by the Travel Industry Council of Hong Kong and the Administration

24. Mr Ronnie HO, Chairman of TIC referred members to the paper provided by TIC (LC Paper No. CB(1)2270/08-09(02)) and highlighted the composition of TIC. He said that TIC's policies were determined by its Board of Directors. Under the Board were 17 committees and three sub-committees, and an Executive Office which was to execute the policies adopted by the Board. Five of the 17 TIC committees were responsible for disciplinary matters and the convenors were Government-appointed independent directors. Some 80% of the members of the remaining committees were from the travel trade and 25% of the membership of these committees were open to application by trade members. Should the number of applications exceed the quota, eligibility would be determined by drawing lots. Besides, TIC regularly organized seminars and forums to gauge the views of its members. Mr HO stressed that there was an active participation by the travel trade in TIC's operation, but no director or person holding office in the Executive Office could dictate TIC's policies and operation, including accounting and financial matters which were duly monitored by the Staff and Finance Committee of TIC. As regards the transparency of TIC's operation, Mr HO said that when handling cases involving members suspected of violating TIC rules, there was a need to conceal all information regarding the members' identities in the relevant documents in order to ensure impartiality. Nevertheless, the decisions would be posted on the TIC website or published in the "Voice of TIC" (a quarterly publication of TIC).

25. In response to concerns from some deputations about the heavy penalty imposed on TIC members for violation of TIC rules, Mr Alvin WONG, Independent Director of TIC stressed that the disciplinary committees of TIC used to deal with

cases of suspected violations fairly in accordance with the spirit of common law, i.e. while a member would usually be fined for violating TIC rules for the first time, heavier penalties would be imposed for subsequent and repeated violations. As an accountant and an independent director of TIC, Mr WONG said that he had advised the Board not to set a target income from fines in its annual budget as the level should be determined on a case-by-case basis. He informed members that the amount of fines collected in 2008 was \$160,000 for 285 cases, which was on the low side when compared with the figures of \$260,000 and \$540,000 for 2006 and 2007 respectively.

26. The Commissioner for Tourism (C for T) highlighted the importance to maintain a high standard of professionalism within the travel industry and to protect the interests of both the trade and travellers, in order to enhance the competitiveness and ensure the sustainable development of Hong Kong's tourism. In view of the fast-changing business environment, and the need to maintain flexibility and efficiency in delivering travel-related services, the Government had entrusted TIC with the responsibility to regulate both outbound and inbound travel agents after TAO was amended in 2002. The industry self-regulatory role of TIC was proven effective, as reflected by the significant drop of complaints pursuant to the measures implemented by TIC to combat market malpractices related to Mainland "zero-fare" or "negative-fare" tours to Hong Kong. C for T pointed out that TIC had to operate on an independent, impartial and transparent manner in order to maintain credibility. The accountability of TIC's operation had been enhanced over the years, such as by increasing the number of independent directors in its Board, i.e. from two independent directors in the earlier years of operation to the existing 12. Appointed by the Secretary for Commerce and Economic Development, the independent directors included professionals and experts of various fields outside the travel trade. C for T added that any TIC member who felt aggrieved by the decisions of the TIC disciplinary committees might lodge an appeal with TIC's Appeal Board, with a majority of its members being Government-appointed independent members.

Discussion

27. Mr Paul TSE declared that he was the owner of a travel agency, and his travel company was a TIC member. The Chairman declared that he was a shareholder and non-executive director of a travel agency. Mrs Regina IP said that outbound tourism was under her purview when she was serving as the Deputy Secretary for Trade and Industry in 1993-1995. She had worked on visa facilitation measures and made acquaintances with many members of the travel trade during her service as the former Director of Immigration.

Structure and effectiveness of industry self-regulation

28. In response to Ms Starry LEE, C for T outlined the two-tiered structure in regulating travel agents. While TAR was responsible for issuance and renewal of travel agent licences in accordance with TAO, TIC regulated the daily operation of travel agencies, such as formulating codes of practices, handling complaints and

disciplinary matters etc. The Government considered it more appropriate to entrust TIC to take up the self-regulatory role as members of the trade, with their good knowledge of and experience in the trade, would be able to draw up effective codes and regulations for travel agents. At the same time, the Tourism Commission (TC) maintained close communication with TIC through various channels, such as by having representatives as observers at the TIC Board meetings and as members of TIC committees/ad hoc groups. She added that if TIC members were aggrieved by the disciplinary actions imposed by TIC, and were not satisfied with the decision of TIC's Appeal Board, they might seek redress with TAR where warranted.

29. Mr Fred LI was not convinced how the Administration could effectively oversee TIC's operation in regulating travel agents, given that public officials attending the TIC Board meetings were observers without speaking rights. He requested the Administration to clarify the basis and extent of its statutory powers in the supervision of TIC. Mr Paul TSE shared this view. He considered that while discussion relating to the conduct and discipline of certain trade members should be kept confidential, deliberation of policies affecting the entire trade should be highly transparent and open to all TIC members. Referring to the outcome of his recent survey, Mr TSE conveyed that there was a strong call from the trade for increasing the transparency of TIC's operation. Considering that TIC's financial management should be subject to more stringent monitoring, he urged the Administration to honour its undertaking to conduct value-for-money audits for TIC.

30. C for T explained that under TAO, TIC was required to forward to the Secretary for Commerce and Economic Development (SCED) estimates of its income and expenditure in respect of the next financial year. Amendments to provisions in TIC's Memorandum and Articles of Association in relation to membership criteria, composition of TIC Board of Directors etc also required SCED's approval. The Government would give advice to TIC from time to time on these matters as appropriate and necessary. The TIC Board had also given consent that Government officials could report the discussions of the Board meetings for internal reference and follow up.

31. In her observation as an ex-Government official, Mrs Regina IP noted that it was an expedient measure to adopt self-regulatory approach for the travel industry. However, in view of the concerns raised by the trade about TIC's operation and the levy it collected, Mrs IP asked if the Administration would consider conducting a root and branch review of TIC.

32. C for T responded that TIC had undergone substantial re-organization when it was entrusted with the role to regulate travel agents. As a thorough review of TIC had been conducted in 2002, the Administration had no plans at this stage to carry out another major review. Nevertheless, the Administration took note of members' concerns and would continue to explore ways to improve the transparency and credibility of TIC's operation. Mrs Regina IP said that it had been a long time since the last review took place. She requested to put on record

her dissatisfaction about the Administration's inaction to address concerns about TIC's operation.

33. Mr Fred LI opined that the problem of TIC was structural as it was basically a trade union but was somehow conferred with substantial power to regulate both inbound and outbound tour operators. He observed that as TIC was not a statutory body nor a Government-subsidized organization, it was not within the Ombudsman's jurisdiction nor subject to audit by the Audit Commission. Mr LI pointed out that the recent incidents relating to "bunching approach" in the purchase of travel insurance had revealed TIC's weaknesses in regulating the travel trade. He urged the Administration to conduct a thorough review of the self-regulatory mechanism and consider replacing TIC by a statutory body to monitor the travel industry.

34. Mr Paul TSE opined that the credibility of TIC had been crippled by problems associated with political interests and conflict of roles. In his view, TIC Board members or incumbents of its Executive Office should not stand for political elections so as to avoid conflict of interests, and it was gross negligence of the Administration to have overlooked this issue.

35. Mr CHIM Pui-chung opined that notwithstanding TIC's contribution to the tourism industry in the past, there was a need to review and improve its operation. In particular, it should ameliorate its image as a political platform serving the private interests of individuals or political affiliations. He considered that TIC should strike a balance of interests and maintain political neutrality, so as to enhance recognition of its role and functions among TIC members and the travelling public at large. C for T reiterated that the role of TIC was clearly defined. As for the election-related activities in respect of the Legislative Council election in 2008, she recalled that the staff concerned had taken no pay leave from his position in the Executive Office of TIC when he ran for the election. Mr Alvin WONG of TIC refuted that TIC was a political machine and emphasized that no persons serving TIC could dictate the policies laid down by the Board or channel any interests to individuals or political affiliations. Nevertheless, he admitted that there were inherent inadequacies in TIC in undertaking the industry self-regulatory role.

36. Expressing support for the Administration to conduct a thorough review of TIC's structure and operation, Mr Albert CHAN queried the role of TIC. It was absurd to him that a trade union incorporated under the Companies Ordinance (Cap. 32) like TIC was legally entitled to collect a levy indirectly from the public to support its operation. In his view, TIC was a unique entity in Hong Kong with confusing role and functions which was characterized by favouritism and transfer of benefits. The small and medium travel agencies had been disadvantaged under such a self-regulatory scheme. Mr CHAN further highlighted the unclear distribution of powers and responsibilities among travel-related agencies, i.e. TIC, TAR, TC and the Hong Kong Tourism Board, which had resulted in unnecessary delay in decision-making when facing crisis. The belated decision to provide assistance to Hong Kong residents stranded in Thailand when the international

ALA

airport in Bangkok ceased operation on 26 November 2008 was a case in point. In this connection, Mr CHAN requested the Assistant Legal Adviser to advise the Panel on the legal basis for TIC, an incorporated entity, to play an industry self-regulatory role in monitoring travel agencies and collect levy from them.

37. Mr Vincent FANG observed that the workload and complexity of TIC's duties had increased with the inclusion of inbound tour operators under its regulation in 2002. He considered self-regulation the most effective mode in monitoring the travel trade as the industry players had more expertise and experience to determine the regulatory rules with flexibility to cater for the changing needs of travel agencies and the business environment. In view of the general consensus among TIC members, he agreed that there was room for improving the transparency of TIC's operation.

38. Mr CHAN Kam-lam noted the concerns of many travel agents that TIC had been monitoring the travel agents in a very strict manner under a distant relationship. As such, many travel agents hoped that the Government would replace TIC and assume the monitoring role. However, Mr CHAN considered that the travel sector as a whole fared well in the previous years in spite of the adverse economic and business environments, which might partly attribute to the effective regulation of TIC. Mr CHAN stressed that an effective regulatory regime should be conducive to the smooth operation of the travel trade, a healthy and competitive business environment, and above all preservation of consumer interests. As such, he called upon members to exercise caution in introducing any changes to the existing mode of operation. In the meantime, he agreed that the Government should diagnose the problems of TIC's operation, and address the grave concerns of some travel agents.

39. Mr Andrew LEUNG enquired about TIC's views on how to improve the transparency of its operation and to gauge the views of the small and medium travel agencies. Mr Ronnie HO of TIC advised that some 90% of TIC members were small and medium travel agencies and membership of most of the committees under the Board were open to applications by TIC members. Hence, there should be sufficient representation of the small and medium travel agencies in TIC. Mr HO said that while it was not practicable to involve all TIC members in decision-making, they would be informed of the resolutions, and the minutes of the Board meetings were posted on the TIC website. As each travel agent was required to join one of the eight Association Member organizations prior to joining TIC, these associations served to bridge communication between TIC and member travel agents.

40. Mr Paul Zimmerman of SIPA said that he could not access the minutes of the Board meetings on the TIC website. Mr Joseph TUNG of TIC advised that the minutes were released on the website under the sub-section "Latest News". At the request of Mr Albert CHAN and the Chairman, TIC agreed to provide further information on how to access the minutes of TIC Board meeting on its website.

TIC

(*Post-meeting note:* The written response provided by TIC was circulated to members on 17 July 2009 vide LC Paper No. CB(1)2310/08-09(02). According to TIC's explanation, the TIC Board of Directors had decided, at its meeting held on 16 December 2008, to disclose its resolutions, the grounds for passing the resolutions and a summary of the points considered to all TIC members after the minutes of the meeting concerned were officially adopted at the following meeting. TIC advised that a password was required to access the said information on the TIC website under the sub-section "Latest News" and each member was provided with a password.)

Admin 41. In response to members' concerns about the transparency of TIC's operation, employee representation in its board of directors, and the power of TIC in imposing penalties etc, C for T agreed to conduct a review of TIC's role and organization. Upon the Chairman's enquiry on the timeframe to complete the review and whether a report would be submitted to the Panel after the review, C for T undertook to try to complete the review within six months' time and report the outcome to the Panel afterward. Ms Starry LEE urged the Administration to complete the review as soon as possible.

42. Mr IP Wai-ming supported the proposal for the Administration to review the operation of TIC and composition of its Board of Directors. Referring to the malpractices associated with employment of unaccredited tourist guides and dismissal of Mainland-bound tours in Shenzhen to obviate the need for appointing Hong Kong tour escorts, Mr IP expressed dissatisfaction about the negligence of TIC in not preventing such abusive acts from happening. He urged the Administration to consider taking up the accreditation tasks itself. Mr IP expressed further concern that the Government had waived the licence fee of travel agents for one year but TIC had not responded to the call of waiving the application or renewal fees for tourist guide and tour escort passes. Mr Joseph TUNG of TIC said that it was TIC's aim to combat the employment of unaccredited tourist guides or illegal workers in the trade. To this end, TIC had engaged the Hong Kong Productivity Council to conduct regular inspections. He said that trade members could provide information on any malpractices they detected for TIC to take actions. Mr Ronnie HO of TIC added that TIC was not in a position to interfere in the tourist products or services provided by the travel agents. At the same time, it was necessary for tourist guides and tour escorts to abide by the codes and regulations laid down by TIC.

Board composition

43. Pointing out that TIC was in essence a union of travel agent owners, Mr IP Wai-ming considered it unreasonable for TIC to regulate the conduct of tourist guides and outbound tour escorts as there was a lack of representation of employees in the composition of the TIC Board. While TIC was conferred with the power to accreditate tourist guides and outbound tour escorts, it had not duly protected their rights and job opportunities which were taken up by Mainland counterparts. Mr Joseph TUNG of TIC said that tourist guides and tour escorts had participated

in TIC meetings on matters relating to training, professional accreditation and regulatory measures, and the current accreditation systems were accepted by relevant unions of tourist guides and tour escorts.

44. Mr Fred LI suggested that other than the 12 Government-appointed independent directors, the remaining directors of the TIC Board should all be directly elected by TIC members, and its Board Chairman should be a non-trade director. Mr LI also considered it necessary to introduce representation of employees in the TIC Board. The Administration took note of the suggestion.

Council levy and franking arrangements

45. With the proliferation of electronic channels for on-line purchase of air tickets and/or hotel accommodation, Mrs Regina IP suggested the Administration and TIC examine whether the current practice of franking receipts in respect of the levies to TIC and TICF should be revamped. C for T informed members that the TICF Management Board was studying the feasibility of implementing electronic levy (e-levy). In this connection, TIC was gauging the views of its members on their acceptability and readiness to switch to e-levy. TIC had commissioned an independent consultant to study the implications of e-levy and advise on facilitation measures. TIC would revert to the TICF Management Committee upon completion of the consultancy report by end 2009.

46. Noting that travel agents had to pay an annual licence fee of \$5,820 to TAR, Mr Vincent FANG enquired about TAR's scope of work to justify the fee and suggested that the current levy to TIC be incorporated in the licence fee to alleviate the burden of operating costs on the travel agents. He supported a review of the TIC levy arrangements, having regard to the prevalent adverse economic and business environment and the call for more equity between outbound and inbound travel agents.

47. C for T explained that TAR was responsible for the administration of TAO. It mainly monitored the financial conditions of the travel agents through licensing. The accounts of licensed travel agents were subject to the scrutiny of TAR which was empowered to suspend or revoke a licence should the travel agent operate contrary to public interest. Bound by the provisions under section 32I of TAO, travel agents had to contribute a levy to TIC to support TIC's operational expenses in respect of its trade regulatory functions in particular. As such, it would not be appropriate to use the travel agent licence fee to pay the levy or vice-versa.

Motion

48. Mrs Regina IP proposed to move the following motion which was seconded by Mr Paul TSE:

"本會促請政府就香港旅遊業議會的架構、功能、收費及相關安排作一徹底檢討，包括該議會應否成為法定機構及接受衡

工量值式審計，並就目前旅行代理商發牌安排是否違反《基本法》提供法律意見。"

Translation

"That this Panel urges the Government to conduct a thorough review of the structure, functions, fees and relevant arrangements of the Travel Industry Council of Hong Kong, including whether it should become a statutory organization and be subject to value-for-money audits, and to provide legal advice on whether the present licensing arrangements for travel agencies are in breach of the Basic Law."

49. The Chairman put the motion to vote. As all the seven members present voted for the motion, the Chairman declared that Mrs Regina IP's motion was passed.

Admin

50. In conclusion, the Chairman recapped members' request for the Administration to conduct a review of TIC within six months' time and report the outcome to the Panel accordingly.

II Any other business

51. There being no other business, the meeting ended at 12:55 pm.

Council Business Division 1
Legislative Council Secretariat
14 October 2009