

**For information
on 23 May 2011**

Legislative Council Panel on Economic Development

Review of the Operation and Regulatory Framework of the Tourism Sector in Hong Kong

Purpose

The Commerce and Economic Development Bureau issued on 29 April 2011 a consultation paper on the review of the operation and regulatory framework of Hong Kong's tourism sector, and invited views from the trade and the public. This paper outlines the key points of the consultation paper and our consultation arrangements.

Background

2. The tourism sector currently adopts a two-tier regulatory regime. The Travel Industry Council of Hong Kong (TIC) is responsible for trade self-regulation, while the Travel Agents Registry (TAR) of the Tourism Commission (TC) is responsible for issuing licences to travel agents and monitoring their financial position. This regime has been in operation for the past 20 years. The TIC has been performing an important role in regulating the trade and promoting the development of the tourism sector, which has been evolving and growing over the past two decades. In recent years, the rapid increase in the number of Mainland visitors has exerted heavy pressure on the TIC's regulatory work.

3. The Chief Executive announced in the Policy Address in October 2010 that the Government would review the operation and regulatory framework of Hong Kong's tourism sector. The main objective is to set the direction for the sustainable and healthy development of the sector. Several incidents involving malpractices in the operation of Mainland inbound tours that happened in mid-2010 have led to public concerns about whether the existing regulatory framework of the tourism sector can meet the needs of a fast developing industry. In this connection, we will first focus on devising an effective regulatory regime for the tourism sector that can evolve with changing circumstances. The Panel on Economic Development had an initial discussion on the direction and scope of the review at its meeting on 28 February 2011.

4. In drafting the consultation paper, we have considered views from the community on the operation and the regulation of the tourism sector, and studied the regulatory models of other economies. The consultation paper sets out four reform options, as well as their merits and drawbacks, their estimated implementation timeframes and financial implications. The salient points are set out below -

Reform Options

Option 1: Retain the Two-tier Regulatory Regime, Reform the TIC and Specify its Role as a Public Association

5. Option 1 proposes to revamp the composition of the TIC Board of Directors (TIC Board) and committees, and to increase the number of non-trade directors to form the majority of the Board. The TIC Chairman may be elected by and among all directors, or appointed by the Government. The composition of the TIC Appeal Board and those committees responsible for disciplinary and sanction matters (including the Compliance Committee, the Consumer Relations Committee and the Committee on Shopping-related Practices) will be changed. Non-trade members will take up the full membership of these committees, instead of just forming the majority under the current regime. The Government will also amend the Travel Agents Ordinance (TAO) (Cap. 218) to set out clearly the role of the TIC as a public association in the regulatory framework.

6. This option retains the current two-tier regulatory regime. Travel agents and trade practitioners will continue to be regulated by the codes of conduct and directives promulgated by the TIC, which allows the regulatory body to respond promptly to the ever-changing trade practices.

7. This option involves amending the TIC's Memorandum and Articles of Association (MAA) regarding the composition of the TIC Board and the TIC Appeal Board, and amending the TAO to specify the TIC's role as a public association. We estimate that the former task will take six to nine months after the trade has reached a consensus on revamping the composition of the TIC Board and committees. As regards legislative amendments, we aim to introduce a bill into the Legislative Council (LegCo) within one year. The amendments to the TIC's MAA and the TAO can be pursued concurrently. We believe that the TIC can implement the reforms under Option 1 with existing resources. The financial implications of the option are therefore insignificant.

Option 2: Transfer Certain Regulatory Functions from the TIC to a Government Department

8. In addition to adopting the proposals in Option 1 to revamp the composition of the TIC Board and committees (i.e. to increase the number of non-trade directors; the TIC Chairman to be elected by and among all directors or appointed by the Government; and the composition of those committees responsible for disciplinary and sanction matters to be changed so that these committees will comprise only non-trade members), Option 2 proposes to review the functions, powers and responsibilities of the TIC. Under this option, the TIC will continue to draw up codes of conduct and directives, but these must be approved by the Government before implementation. Moreover, to further strengthen the appeal mechanism and afford better protection for travellers, we propose to set up independent appeal committee(s) outside the TIC comprising only non-trade members and to introduce channels for travellers to appeal against the TIC's decisions. The independent appeal committee(s) will be responsible for handling appeals against the TIC's decisions lodged by trade members and travellers. The TAR will provide administrative support to the committee(s).

9. This option is similar to Option 1, and will help address the concerns on "insiders regulating insiders" and retain the TIC's regulatory role and status as a trade organisation. It facilitates the TIC in continuing with its work in co-ordinating with the trade and promoting the long-term development of the tourism sector. In general, this option preserves the merits of the TIC mechanism, whilst enhancing the independence and credibility of the regulatory regime.

10. This option involves amending the TIC's MAA, which will require around six to nine months after the trade has reached a consensus. The legislative amendments under Option 2 are more complex than those under Option 1, and we expect that an amendment bill can be introduced into LegCo in about two years. This option involves a small expansion of the establishment and functions of the TAR, to enable it to provide administrative support to the independent appeal committee(s). Our preliminary estimate is that the annual expenditure will increase by \$9 million.

Option 3: Establish an Independent Statutory Body to Regulate the Tourism Sector

11. Option 3 proposes to establish an independent statutory body to regulate travel agents, tourist guides and tour escorts. The licensing work

can either be entrusted to the independent statutory body, or be carried out by the Government as the ultimate licensing authority. The TIC will retain its trade organisation status to promote industry development. We suggest that the chairman, vice-chairman and all members of the board of directors of the independent statutory body should be appointed by the Government. Appointees may include trade members (including frontline staff), non-trade members and Government representatives. Non-trade members should form the majority of the board of directors.

12. Establishing a new independent statutory body can enhance the independence and credibility of the regulatory framework of the tourism sector. The independent statutory body will have a solid legal basis to carry out regulatory work, thus avoiding disputes. The independent statutory body can also promulgate guidelines which are not subsidiary legislation in regulating travel agents, tourist guides and tour escorts. Although the independent statutory body may not be able to follow the development of the trade as closely as the TIC does, it should still be able to make timely regulatory decisions in the light of market development.

13. Implementation of Option 3 involves legislation and amendments to the TIC's MAA. A new piece of legislation is probably required and we expect that a bill can be introduced into LegCo in about two and a half years, while the amendments to the TIC's MAA will take six to nine months. A rough estimate of the annual expenditure of the independent statutory body is between \$50 million and \$55 million, exceeding the current total annual expenditure of the TAR and the TIC by \$17 million to \$22 million.

Option 4: A Government Department to Take Over the Regulation from the TIC

14. Option 4 proposes that a Government department should take over the overall tourism regulation from the TIC, including handling the licensing and regulation of travel agents, tourist guides and tour escorts. The TIC will retain its trade organisation status to promote industry development, and represent the trade in offering advice to the regulator.

15. With the Government taking over the overall regulation of the tourism sector, the credibility of the regulatory framework can be enhanced. However, given that a Government department is subject to more procedural and financial restrictions, this option provides the least operational flexibility among all options. For example, the Government needs to enact subsidiary legislation for regulating travel agents, tourist guides and tour escorts. This

regulatory mode may lack the flexibility required for timely regulation of trade practices.

16. This option involves legislative amendments and a change in the role and functions of the TIC. We expect that the amendments to the TIC's MAA can be completed in about six to nine months, and an amendment bill introduced into LegCo in about two and a half years. This option also involves upgrading the TAR. Our rough estimate is that the manpower requirement of the new department will increase from the current establishment of 16 in the TAR to about 67. The estimated annual expenditure of the department will increase from \$9 million to about \$45 million, some \$12 million more than the current total expenditure of the TAR and the TIC.

17. Apart from providing details of the above four reform options, the consultation paper also invites views from the public on whether we should introduce a licensing system for tourist guides and different licences for regulating outbound and inbound tourism.

18. Besides reforming the regulatory framework, some members of the public have also suggested that the Government should consider establishing a dedicated policy bureau for tourism to deal with tourism policy, planning and promotion. We also welcome views from the trade and the public in this regard.

Publicity and Consultation

19. We are publicising this review and the public consultation through various channels. We call on stakeholders from the trade and other sectors to actively express their views. We held a press conference on the day we issued the consultation paper. Other publicity measures include attending radio discussion programmes, issuing press release, preparing posters and announcements in the public interest in radio and television. The consultation paper can be obtained from the Public Enquiry Service Centres of the District Offices of the Home Affairs Department, or downloaded from the TC website. We have distributed the consultation paper to LegCo Members, all travel agents, tourism-related organisations, management bodies of major tourist attractions and the relevant academic institutions.

20. Since the beginning of May, we have started meeting with the TIC Board, the Advisory Committee on Travel Agents, the Hong Kong Tourism Board, the Consumer Council, the TIC's eight Association Members, various tourist guide and tour escort associations, and Chairmen and Vice-chairmen

of the 18 District Councils. We have explained to them the contents of the consultation paper and listened to their views. We have also attended a Members' Forum on this review organised by the TIC.

Next Step

21. We have an open-mind on the reform options. The public consultation period will end on 15 July 2011. We will continue to publicise the contents of the consultation paper, and listen to the views of the trade and the community before deciding on the most viable option that can best forge a consensus. We plan to announce the substantive reform proposals in the fourth quarter of this year.

Tourism Commission
Commerce and Economic Development Bureau
May 2011