

立法會 *Legislative Council*

LC Paper No. CB(1)450/10-11(09)

Ref: CB1/PL/EDEV

Panel on Economic Development Meeting on 22 November 2010

Updated background brief on the operation of Travel Industry Council of Hong Kong

Purpose

This paper provides background information on the Travel Industry Council of Hong Kong (TIC) and summarizes concerns raised by Members on the operation of TIC.

Establishment and operation of the Travel Industry Council of Hong Kong

Background

2. TIC was established in 1978 as a trade association for travel agents, and incorporated under the Companies Ordinance (Cap. 32) in 1988. It carries out its work in accordance with its Memorandum and Articles of Association (MAA).

3. The Government enacted the Travel Agents Ordinance (Cap. 218) (TAO) in 1985 to make it mandatory for all outbound travel agents to be licensed. The Travel Agents Registry (TAR)¹ was also set up in the same year to administer the TAO in particular the licensing regime and regulation of travel agents. Following amendments to TAO in 1988 to bring in trade self-regulation to form the two-tier regulatory regime, any person carrying on

¹ Under the provisions of TAO, TAR issues licence to inbound and outbound travel agents and carries out relevant surveillance work, including monitoring the operation and financial position of the licensed travel agents.

business as an outbound travel agent is required to be a member of TIC² before applying for a travel agent's licence from TAR. When the Travel Industry Council Reserve Fund was replaced by the statutory Travel Industry Compensation Fund (TICF)³ in 1993, opportunity was taken to introduce the Council levy under the TAO to ensure that the TIC has stable and recurrent income of finance its trade regulatory functions. With the Travel Agents (Amendment) Ordinance 2002 taking effect in November 2002, the statutory requirement of TIC membership for obtaining travel agents' licence was extended to cover inbound travel agents.

4. The mission of TIC is to maintain a high standard of professionalism within the industry and to protect the interests of both the trade and travellers. TIC is responsible for trade self-regulation, including the promulgation of codes⁴ and directives, as well as putting in place a disciplinary mechanism to handle violation of the codes and directives by member agents. To improve travel agents' service, TIC introduced accreditation systems for tour escorts in 1999 and tourist guides in 2004 respectively. For the latter, a Continuing Professional Development programme was introduced in 2007 to encourage on-going service improvements.

5. The Tourism Commission (TC) was established in May 1999 to map out the Government's tourism development strategy, providing a focal point for liaison with the tourism industry and enhancing co-ordination in developing tourism. Apart from attending meetings of the TIC Board and its various committees as observer, TC also maintains close communication with TIC on various issues affecting the trade.

Organizational structure of TIC

6. The composition of TIC Board is specified in its MAA, which now provides that the Board comprises 29 members, including a Chairman from the trade, eight member-elected directors, eight Association Member

² Prior to joining TIC as an ordinary or affiliate member, a travel agent should join one of the eight Association Members each of which has its unique characteristics catering for specific needs of different markets. Ordinary member agents may conduct any travel and tourism business while the business of affiliate members is restricted to booking of hotel rooms and air tickets, retail sale of package tours and other travel-related dealings.

³ TICF is held, managed and applied by the TICF Management Board set up under Section 32D of TAO. TICF derives its income from the levy contributed by travel agents in accordance with section 32H of TAO. The Travel Agents Ordinance (Specification of Fund Levy) Amendment Notice 2009 was made in June 2009 to reduce the TICF levy rate from 0.15% to 0% with effect from 3 July 2009.

⁴ TIC implemented the following codes of conduct: (a) General Code of Conduct for TIC Members; (b) Code of Business Practice on Outbound Package Tours; (c) Code of Advertising Practice for TIC Members; (d) Code of Business Practice on Inbound Travel Service; and (e) Code of Business Practice on Study Tours.

representatives and 12 Government-appointed independent non-trade directors⁵ coming from different sectors such as the legal and accountancy fields and those with consumer protection experience. TIC issues the General Code of Conduct for the Board to ensure that its directors, being "public servants" subject to the regulation of the Prevention of Bribery Ordinance (Cap. 201), discharge their duties in an impartial and honest manner. Important decisions, reports of the Board's monthly meetings and disciplinary information⁶ are uploaded onto TIC's website for member agents' reference.

7. Under the Board, there are 17 committees, a working group on TIC Elections and the Appeal Board. The convenors of committees responsible for disciplinary matters related to travel agents, tourist guides and tour escorts are non-trade independent directors while the majority of these committee members are from non-trade background.

8. The Appeal Board, which is independent from the TIC Board, is to hear appeals lodged by aggrieved agents or industry members against TIC's disciplinary decisions. Every Appeal Board consists of three independent non-trade members and two trade members⁷ who must have no interest in or connection to the case under appeal.

9. The policies laid down by the TIC Board are carried out by the TIC Executive Office which has 10 departments with an establishment of about 55 staff as at November 2010 under the Executive Director.

Income and financial control

10. Council levy⁸, income from training courses and membership fee⁹ represent 61%, 17% and 9% of TIC's total income in 2008-2009 respectively. TIC also derives income from other sources, such as inbound tour registration fees, shop registration fees, tour escorts and tourist passes registration fees, etc.

⁵ TIC increased the number of non-trade independent directors from two upon establishment in 1988 to four in 1994, to eight in 2004 and to 12 with effect from January 2008 with a view to bringing in more experience and knowledge from other sectors.

⁶ Including travel agents' non-compliance cases, revoked or suspended Tourist Guide Passes and Tour Escort Passes, records of demerit points of registered shops, and names of suspended or revoked registered shops.

⁷ All these members must be present to meet the quorum of the Appeal Board.

⁸ At a rate of 0.15% of every outbound fare received since 1993.

⁹ \$1,000 for Ordinary Members (limited companies) and \$600 for Affiliate Members (sole proprietorships and partnerships) since 1993.

11. TIC's annual account is audited by a professional auditor and submitted for approval by the TIC Board followed by an annual general meeting where all members of the TIC and the independent non-trade directors are invited to attend. A copy of the TIC annual report, which encloses the audited accounts, is issued to every member. TIC is also required under TAO to submit to the Secretary for Commerce and Economic Development each year the estimates of its income and expenditure in respect of the next financial year. As TIC does not receive Government subvention, it is not subject to the Audit Commission's scrutiny.

Review of the operation of the Trade Industry Council of Hong Kong

Members' discussions leading to the review

12. All along, the role and functions of TIC had been a subject of public contentions. Members raised a number of questions at Council meetings on issues related to TIC, including regulation of travel industry, complaint handling mechanism, illegal provision of tourist guide services, training courses for the travel trade, measures to assist the tourism industry, assistance to tour groups visiting Hong Kong, collection of Council levy and monitor the operation of TIC. During the debate on the motion on "Fostering the development of the tourism industry" at the Council meeting on 30 May 2007, there was a suggestion to turn TIC into a statutory body so as to provide a legal basis for its regulatory work. Some Members also suggested the Administration to review the composition of the TIC Board.

13. When issues related to tourism were discussed at the meetings of the former Panel on Economic Services¹⁰ in 2007 and 2008, some members urged the Administration to review the regulatory framework for the travel industry as part of the measures to combat unscrupulous malpractices in the trade, since the current industry self-regulation could not adequately protect visitors' interests.

14. The Panel invited the travel industry and Consumer Council to give views on the operation of TIC at the meeting on 16 July 2009. Some travel agents expressed grave concerns about the statutory requirement of TIC membership for obtaining a licence, the collection of Council levy, the heavy penalty imposed on them for violation of TIC codes of conduct, the lack of employee representatives in the TIC Board and the Disciplinary

¹⁰ The Panel on Economic Services has been renamed as the Panel on Economic Development with effect from the 2007-2008 session.

Committees. Some other deputations commended the work of TIC for serving as a middle person balancing the interests of the trade and tourists and for its capability in catering for the changing needs of the travel industry. Some Panel members queried the legal basis for TIC, an incorporated body, to play an industry self-regulatory role in monitoring the travel agents¹¹, collect Council levy¹² from them and regulate the conduct of tourist guides and escorts. At the meeting on 16 July 2009, the Panel passed a motion urging the Government to conduct a thorough review of the structure, functions, fees and relevant arrangements of TIC, 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 were in breach of the Basic Law.

The review

15. The Government has subsequently conducted a review of the operation of TIC and examined various aspects of TIC including its role in the current regulatory regime of the travel agents in Hong Kong. During the process, references have been made to the views of TIC, the Advisory Committee on Travel Agents, the TIC's Association Members and members of the trade.

16. The Government has concluded that while there is room for improvement, TIC has established an effective role in the regulatory regime which should be recognized and maintained. In particular, TIC has built good rapport and extensive network with local and overseas travel-related industries. It is able to follow changes in the industry, detect early signs of malpractices in the trade, formulate effective responses and regulatory measures, act promptly in handling tourism-related emergencies, and make timely efforts enabling travel agents to respond to crises in a coordinated manner. To make clearer TIC's position and functions under the regulatory regime, the Commerce and Economic Development Bureau would consult the Department of Justice to amend TAO to specify TIC's role more clearly.

¹¹ According to the Panel's legal adviser, the control and regulation of travel agents is provided in TAO which stipulates that a licensed travel agent must be a TIC member. The Memorandum and Articles of Association of TIC, and the Codes of Conduct promulgated by the TIC Board also appear to provide the basis for TIC to play an industry self-regulatory role in monitoring travel agents. For details, please refer to LC Paper No. LS53/09-10.

¹² According to the Panel's legal adviser, section 32I of TAO provides the legal basis for TIC to collect the Council Levy from travel agents as its operational expenses in pursuing or achieving its objects.

Improvement Measures

17. Since July 2009, TIC has made further measures to improve its operation taking into account the views of the Panel on Economic Development, including appointment of an independent director with trade union background to reflect frontline employees' interests, establishment of a Governance Committee to review and make recommendations on the operation of TIC, election of an independent director to serve as the convener of its Staff and Finance Committee, publication of meeting agenda and sanitized minutes on TIC's website to increase transparency as well as enhanced monitoring by TC. TIC will also conduct a value-for-money audit¹³ and formulate clearer guidelines on TIC elections¹⁴.

Panel members' view on the review outcome

18. The Administration briefed members on the outcome of the review at the meeting of Panel on Economic Development on 24 May 2010. Panel members noted that the Administration intended to maintain the current regulatory regime for the travel agents, as TIC in its present form (i.e. a trade body with regulatory functions) was best placed to foster trade development and regulate the ever changing trade practices. Some members considered it important for TIC to enhance public recognition of its role as an agent which could foster trade development while protecting consumer interests. However, some other members queried how TIC could impartially strike this balance since it was basically a trade association and a company registered under the Companies Ordinance. These members were of the view that specifying TIC's role more clearly in TAO would only legalize and reinforce the existing unreasonable arrangement under which the Government was not statutorily empowered to monitor TIC's operation. A member further enquired about the possibility of turning TIC into a statutory body, with its composition, functions, powers and framework of checks and balances governed by a specific ordinance.

19. The Administration advised that the industry self-regulatory regime for the travel industry was a long-established and widely accepted framework, and any attempt to revoke it would require very careful consideration. Moreover, industry self-regulation would not hinder parallel efforts of enhancing consumer protection. In this respect, the Administration would continue discussions with TIC possible ways to further enhance the complaint

¹³ No information about the value-for-money audit is found at TIC's website.

¹⁴ On 16 July 2010, the TIC Board issued the "Rules for Election of Elected Directors".

mechanism to ensure that consumer complaints would be dealt with in a more impartial and transparent manner. The Administration would continue to work closely with TIC in improving the regulatory regime in the light of the changing circumstances of the trade.

Latest development

20. On 22 May 2010, a Mainland tourist died of heart attack after quarrelling with an illegal tourist guide who refused to let the tour group leave a jewellery shop. In July 2010, a clip of the female guide berating a group of mainland visitors as cheapskates went viral on the internet and television screens across the Mainland. TIC had subsequently decided to impose penalties on the two travel agents concerned, and suspend the Tourist Guide Pass of the female guide in question for six months, after which any violation of the relevant rules would lead to revocation of her Pass.

21. In his 2010-2011 Policy Address, the Chief Executive remarked that the few incidents concerning unscrupulous practices relating to Mainland tour groups had tarnished the reputation of tourism industry. The Government was determined to step up regulation and promote the healthy and sustainable development of the tourism industry. The Commerce and Economic Development Bureau has been tasked to review the operation and regulatory framework of the entire tourism sector, including the role, powers, responsibilities and operation of TIC, as well as its working relationship with the Travel Agents Registry.

References

22. A list of the relevant papers is in the **Appendix**.

List of relevant papers

Committee	Paper	LC Paper No.
Council Meeting on 10 March 2004	Hon LAU Kong-wah raised a written question on "Tourists' complaints against local service industry"	Hansard (Pages 46 to 49) http://www.legco.gov.hk/yr03-04/english/counmtg/hansard/cm0310ti-translate-e.pdf
Council Meeting on 26 January 2005	Hon Howard YOUNG raised a written question on "Tourist guides without tourist guide permit"	Hansard (Pages 186 to 188) http://www.legco.gov.hk/yr04-05/english/counmtg/hansard/cm0126ti-translate-e.pdf
Council Meeting on 19 October 2005	Hon Fred LI raised a written question on "Travel agents charging administrative fee"	Hansard (Pages 105 to 109) http://www.legco.gov.hk/yr05-06/english/counmtg/hansard/cm1019ti-translate-e.pdf
Council Meeting on 9 November 2005	Hon CHAN Yuen-han raised a written question on "People without tourist guide passes serving as tour guides"	Hansard (Pages 83 to 87) http://www.legco.gov.hk/yr05-06/english/counmtg/hansard/cm1109ti-translate-e.pdf
Council Meeting on 22 November 2006	Hon Howard YOUNG raised a written question on "Monitoring of industry conduct"	Hansard (Pages 60 to 63) http://www.legco.gov.hk/yr06-07/english/counmtg/hansard/cm1122-translate-e.pdf
Council Meeting on 22 November 2006	Hon TAM Yiu-chung raised a written question on "Promoting healthy development of tourism industry"	Hansard (Pages 90 to 92) http://www.legco.gov.hk/yr06-07/english/counmtg/hansard/cm1122-translate-e.pdf
Council Meeting on 7 February 2007	Hon Fred LI raised a written question on "Regulation of travel industry"	Hansard (Pages 96 to 98) http://www.legco.gov.hk/yr06-07/english/counmtg/hansard/cm0207-translate-e.pdf
Meeting of the Panel on Economic Services (ES Panel) on 23 April 2007	Administration's information paper on "Strengthening consumer protection for Mainland visitors in Hong Kong" Minutes of meeting (paragraphs 14 to 17)	CB(1)1413/06-07(04) http://www.legco.gov.hk/yr06-07/english/panels/es/papers/es0423cb1-1413-4-e.pdf CB(1)1945/06-07 http://www.legco.gov.hk/yr06-07/english/panels/es/minutes/es070423.pdf

Committee	Paper	LC Paper No.
Council Meeting on 30 May 2007	Motion on "Fostering the development of the tourism industry"	Hansard (Pages 99 to 171) http://www.legco.gov.hk/yr06-07/english/counmtg/hansard/cm0530-translate-e.pdf
Meeting of the ES Panel on 22 October 2007	Administration's paper on "Policy Agenda of the Commerce, Industry and Tourism Branch, Commerce and Economic Development Bureau" Minutes of meeting (paragraphs 52 to 65)	CB(1)43/07-08(02) http://www.legco.gov.hk/yr07-08/english/panels/es/papers/eDEV1022cb1-43-2-e.pdf CB(1)458/07-08 http://www.legco.gov.hk/yr07-08/english/panels/es/minutes/ev071022.pdf
Meeting of the Panel on Economic Development (EDEV Panel) on 24 October 2008	Administration's paper on "Policy Agenda of the Commerce, Industry and Tourism Branch, Commerce and Economic Development Bureau" Minutes of meeting (paragraphs 24 to 28)	CB(1)33/08-09(02) http://www.legco.gov.hk/yr08-09/english/panels/eDEV/papers/eDEV1024cb1-33-2-e.pdf CB(1)324/08-09 http://www.legco.gov.hk/yr08-09/english/panels/eDEV/minutes/eDEV20081024.pdf
Council Meeting on 25 February 2009	Hon Paul TSE raised an oral question on "Measures to assist tourism industry"	Hansard (Pages 27 to 29) http://www.legco.gov.hk/yr08-09/english/counmtg/hansard/cm0225-translate-e.pdf
Council Meeting on 13 May 2009	Motion on "Proposed establishment of a Tourism Bureau with dedicated responsibility for handling tourism issues"	Hansard (Pages 198 to 258) http://www.legco.gov.hk/yr08-09/english/counmtg/hansard/cm0513-translate-e.pdf
Council Meeting on 13 May 2009	Hon Paul TSE raised a written question on "Unlicensed travel agents"	Hansard (Pages 88 to 90) http://www.legco.gov.hk/yr08-09/english/counmtg/hansard/cm0513-translate-e.pdf
Council Meeting on 27 May 2009	Hon Paul TSE raised a written question on "Waiving travel agents' licence fee"	Hansard (Pages 90 to 93) http://www.legco.gov.hk/yr08-09/english/counmtg/hansard/cm0527-translate-e.pdf
Council Meeting on 10 June 2009	Hon Paul TSE raised an oral question on "Monitoring of operation of TIC"	Hansard (Pages 18 to 27) http://www.legco.gov.hk/yr08-09/english/counmtg/hansard/cm0610-translate-e.pdf

Committee	Paper	LC Paper No.
Council Meeting on 17 June 2009	Hon Paul TSE raised a written question on "Training courses organized by TIC"	Hansard (Pages 103 to 105) http://www.legco.gov.hk/yr08-09/english/counmtg/hansard/cm0617-translate-e.pdf
Meeting of the EDEV Panel on 22 June 2009	Administration's paper on "Proposals to amend the Travel Agents Ordinance (Specification of Fund Levy) Notice (Cap. 218D) and the Travel Industry Compensation Fund Rules (Cap. 218E & F)" Minutes of meeting (paragraphs 5 to 42)	CB(1)1939/08-09(03) http://www.legco.gov.hk/yr08-09/english/panels/eDEV/papers/eDEV0622cb1-1939-3-e.pdf CB(1)2487/08-09 http://www.legco.gov.hk/yr08-09/english/panels/eDEV/minutes/eDEV20090622.pdf
Council Meeting on 8 July 2009	Hon IP Wai-ming raised a written question on "Renewal of tourist guide passes"	Hansard (Pages 116 to 117) http://www.legco.gov.hk/yr08-09/english/counmtg/hansard/cm0708-translate-e.pdf
Meeting of the EDEV Panel on 16 July 2009	Administration's paper on "Operation of TIC" Background brief on TIC prepared by the Legislative Council Secretariat Paper provided by TIC (Chinese version only) Minutes of meeting (paragraphs 1 to 50)	CB(1)2242/08-09(02) http://www.legco.gov.hk/yr08-09/english/panels/eDEV/papers/eDEV0716cb1-2242-2-e.pdf CB(1)2242/08-09(03) http://www.legco.gov.hk/yr08-09/english/panels/eDEV/papers/eDEV0716cb1-2242-3-e.pdf CB(1)2270/08-09(02) http://www.legco.gov.hk/yr08-09/chinese/panels/eDEV/papers/eDEV0716cb1-2270-2-c.pdf CB(1)2777/08-09 http://www.legco.gov.hk/yr08-09/english/panels/eDEV/minutes/eDEV20090716.pdf
Council Meeting on 28 October 2009	Hon Paul TSE raised a written question on "Measures to combat illegal provision of tour guide services in Hong Kong by Mainland tour escorts"	Hansard (Pages 57 to 60) http://www.legco.gov.hk/yr09-10/english/counmtg/hansard/cm1028-translate-e.pdf

Committee	Paper	LC Paper No.
Council Meeting on 24 February 2010	Hon Paul TSE raised a written question on "Local one-day tours"	Hansard (Pages 57 to 59) http://www.legco.gov.hk/yr09-10/english/counmtg/hansard/cm0224-translate-e.pdf
Special Meeting of the Finance Committee on 22 March 2010	Administration's replies to written questions raised by Finance Committee Members in examining the Estimates of Expenditure 2010-2011	http://www.legco.gov.hk/yr09-10/english/fc/fc/w_q/cedb-cit-e.pdf (P.63, 169, 212, 214, 216 and 229)
Council Meeting on 14 April 2010	Hon Paul TSE raised a written question on "Emergency assistance for travellers visiting Hong Kong"	Hansard (Pages 69 to 72) http://www.legco.gov.hk/yr09-10/english/counmtg/hansard/cm0414-translate-e.pdf
Council Meeting on 21 April 2010	Hon Paul TSE raised a written question on "Setting up a Tourism Crisis Management Office"	Hansard (Page 72) http://www.legco.gov.hk/yr09-10/english/counmtg/hansard/cm0421-translate-e.pdf
Council Meeting on 28 April 2010	Hon Paul TSE raised a written question on "Monitoring complaint handling mechanism of TIC"	Hansard (Pages 124 to 126) http://www.legco.gov.hk/yr09-10/english/counmtg/hansard/cm0428-translate-e.pdf
Meeting of the EDEV Panel on 24 May 2010	<p>Administration's paper on review of the operation of the TIC</p> <p>Paper on legal advice related to the role of TIC prepared by the Legal Service Division of the Legislative Council Secretariat</p> <p>Updated background brief on the operation of TIC prepared by the Legislative Council Secretariat</p> <p>Minutes of meeting (paragraphs 53-75)</p>	<p>CB(1)1910/09-10(05) http://www.legco.gov.hk/yr09-10/english/panels/edev/papers/edev0524cb1-1910-5-e.pdf</p> <p>LS53/09-10 http://www.legco.gov.hk/yr09-10/english/panels/edev/papers/edev0524ls-53-e.pdf</p> <p>CB(1)1910/09-10(07) http://www.legco.gov.hk/yr09-10/english/panels/edev/papers/edev0524cb1-1910-7-e.pdf</p> <p>CB(1)2302/09-10 http://www.legco.gov.hk/yr09-10/english/panels/edev/minutes/edev20100524.pdf</p>

Committee	Paper	LC Paper No.
Council Meeting on 26 May 2010	Hon Paul TSE raised an oral question on "Travel Industry of Hong Kong"	Hansard (Pages 65 to 75) http://www.legco.gov.hk/yr09-10/english/counmtg/hansard/cm0526-translate-e.pdf
21 June 2010	TIC's news on "Termination of Win's Travel Agency's membership confirmed"	http://www.tichk.org/public/website/en/news/2010_10_18/html
Council Meeting on 30 June 2010	Hon Jeffrey LAM raised an oral question on "Regulation of Shops Which Mainly Serve Tour Groups from the Mainland"	Hansard (Floor) (Pages 54 to 57) http://www.legco.gov.hk/yr09-10/chinese/counmtg/floor/cm0630-confirm-ec.pdf
Meeting of the EDEV Panel on 28 June 2010	Administration's paper on "Regulation of inbound travel trades" Background brief on regulation of inbound travel trades prepared by the Legislative Council Secretariat Minutes of meeting (paragraphs 53-70)	CB(1)2301/09-10(09) http://www.legco.gov.hk/yr09-10/english/panels/eDEV/papers/eDEV0628cb1-2301-9-e.pdf CB(1)2301/09-10(10) http://www.legco.gov.hk/yr09-10/english/panels/eDEV/papers/eDEV0628cb1-2301-10-e.pdf CB(1)2758/09-10 http://www.legco.gov.hk/yr09-10/english/panels/eDEV/minutes/eDEV20100628.pdf
16 July 2010	Travel Industry Council of Hong Kong's directive on rules for election of elected Directors resolution No. 187	http://www.tichk.org/public/website/en/codes/directive/index.html
4 September 2010	Travel Industry Council of Hong Kong's news on "TIC penalizes discourteous tourist guide and travel agent"	http://www.tichk.org/public/website/en/news/2010_09_04/html
13 October 2010	Address by the Chief Executive at the Legislative Council meeting on 13 October 2010 - "Sharing Prosperity for a Caring Society"	http://www.legco.gov.hk/yr10-11/english/panels/1011policy-e.pdf
18 October 2010	Travel Industry Council of Hong Kong's news on "Punishment changed to suspension of Tourist Guide Pass"	http://www.tichk.org/public/website/en/news/2010_10_18/html