

立法會
Legislative Council

LC Paper No. CB(4)941/13-14
(These minutes have been seen
by the Administration)

Ref : CB4/SS/6/13

**Subcommittee to Study the Proposed Legislative Amendments Relating to
the Establishment of a New Innovation and Technology Bureau**

**Minutes of the first meeting
held on Thursday, 5 June 2014, at 8:30 am
in Conference Room 2 of the Legislative Council Complex**

Members present : Ir Dr Hon LO Wai-kwok, BBS, MH, JP (Chairman)
Hon WONG Kwok-hing, BBS, MH
Hon Andrew LEUNG Kwan-yuen, GBS, JP
Hon WONG Ting-kwong, SBS, JP
Hon Alan LEONG Kah-kit, SC
Hon Claudia MO
Hon YIU Si-wing
Hon MA Fung-kwok, SBS, JP
Hon Charles Peter MOK
Hon CHAN Chi-chuen
Hon SIN Chung-kai, SBS, JP
Dr Hon Elizabeth QUAT, JP
Hon CHUNG Kwok-pan
Hon Christopher CHUNG Shu-kun, BBS, MH, JP
Hon Tony TSE Wai-chuen

Member absent: Hon LEUNG Kwok-hung
Hon Albert CHAN Wai-yip
Hon WONG Yuk-man

**Public officers
attending**

: Agenda item II

Commerce and Economic Development Bureau

Miss Susie HO, JP
Permanent Secretary for Commerce and Economic
Development (Communications and Technology)

Mr Joe WONG, JP
Deputy Secretary for Commerce and Economic
Development (Communications and Technology)

Mr Ivanhoe CHANG
Principal Assistant Secretary for Commerce and
Economic Development (Communications and
Technology)B

Office of the Government Chief Information
Officer

Mr Daniel LAI, BBS, JP
Government Chief Information Officer

Miss Joey LAM, JP
Deputy Government Chief Information Officer
(Policy and Community)

Mr Danny NG
Senior System Manager (Industry Facilitation)7

Innovation and Technology Commission

Mr Johann WONG, JP
Deputy Commissioner for Innovation and
Technology

Department of Justice

Miss Shandy LIU
Senior Assistant Law Draftsman

Clerk in attendance : Ms YUE Tin-po
Chief Council Secretary (4)3

Staff in attendance : Miss Winnie LO
Assistant Legal Adviser 7

Mr Joey LO
Senior Council Secretary (4)3

Miss Mandy NG
Council Secretary (4)3

Action

I. Election of Chairman

Ir Dr LO Wai-kwok was elected Chairman of the Subcommittee.

II. Meeting with the Administration

(LC Paper No. CB(3)670/13-14 -- Proposed resolution under section 54A of the Interpretation and General Clauses Ordinance

Ref: CTB/B/1-145/(14)/C -- Legislative Council Brief on "Establishment of a new Innovation and Technology Bureau – Legislative Amendments" issued by the Commerce and Economic Development Bureau on 20 May 2014

LC Paper No. LS58/13-14 -- Legal Service Division Report

LC Paper No. CB(4)738/13-14 (02) -- Assistant Legal Adviser's letter dated 21 May 2014 to the Administration

LC Paper No. CB(4)738/13-14 (03) -- Assistant Legal Adviser's letter dated 22 May 2014 to the Administration

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- LC Paper No. CB(4)738/13-14 (04) -- Assistant Legal Adviser's letter dated 28 May 2014 to the Administration
- LC Paper No. CB(4)738/13-14 (05) -- Administration's reply dated 22 May 2014 to Assistant Legal Adviser's letter dated 21 May 2014
- LC Paper No. CB(4)738/13-14 (06) -- Administration's reply dated 23 May 2014 to Assistant Legal Adviser's letter dated 22 May 2014
- LC Paper No. CB(4)738/13-14 (01) -- Background brief prepared by the Legislative Council Secretariat)
- LC Paper No. CB(4)780/13-14 (01) -- Administration's reply dated 4 June 2014 to Assistant Legal Adviser's letter dated 28 May 2014 (English version tabled at the meeting and subsequently issued vide email on 6 June 2014. Chinese version to follow.)

Discussion

2. The Subcommittee deliberated (Index of proceedings attached at **Appendix**).

Follow-up actions to be taken by the Administration

3. The Administration was requested to:
- (a) explain the rationale for fixing the commencement date of the proposed resolution on the 14th day after the date on which the Finance Committee approves the financial proposal relating to the establishment of the new Innovation and Technology Bureau ("ITB"), or on the 14th day after the date on which the proposed resolution is made and passed by the Council, whichever date is later;
 - (b) in relation to item (a), consider extending the 14 day deadline to allow sufficient time for the preparation work relating to the establishment of the ITB, including the appointment of a suitable candidate for the post

Action

of Secretary for Innovation and Technology; and

- (c) consider amending paragraphs (3)(d)(ii),(3)(d)(iv) and (3)(e) of the proposed resolution to spell out clearly that the matters mentioned are confined to the transfer of statutory functions under the Electronics Transaction Ordinance (Cap. 553) pursuant to the establishment of the ITB.

Follow-up actions to be taken by the Secretariat

4. The Secretariat was requested to compile the relevant papers relating to the discussions on the proposed establishment of the Innovation and Technology Bureau at different committees.

(Post-meeting note: The relevant papers were circulated to members vide LC Paper No. CB(4)781/13-14 on 6 June 2014.)

III. Any other business

Invitation of views

5. The Subcommittee agreed that there was no need to invite public views on the proposed legislative amendments.

Legislative timetable

6. The Subcommittee requested and the Administration agreed to withdraw the notice to move the proposed resolution at the Council meeting of 18 June 2014 for the proposed establishment of ITB in accordance with Rule 35(1) of the Rules of Procedure to allow sufficient time for the Subcommittee to scrutinize the proposed resolution.

(Post-meeting note: At the request of the Subcommittee, the Secretary for Commerce and Economic Development withdrew his notice for moving the proposed resolution at the Council meeting of 18 June 2014, pending the deliberation of the Subcommittee.)

Date of next meeting

7. Members agreed that the next meeting be held on 12 June 2014.
8. There being no other business, the meeting ended at 10:30 am.

Action

Council Business Division 4
Legislative Council Secretariat
16 July 2014

**Proceedings of the first meeting of
Subcommittee to Study the Proposed Legislative Amendments Relating to the
Establishment of a New Innovation and Technology Bureau
on Thursday, 5 June 2014, at 8:30 am
in Conference Room 2 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
Agenda item I – Election of Chairman			
000130– 000230	Mr WONG Kwok-hing Mr Andrew LEUNG Kwan-yuen Mr WONG Ting-kwong Ir Dr LO Wai-kwok Mr Charles Peter MOK Ms Claudia MO	Election of Chairman	
Agenda item II – Meeting with the Administration			
000315 – 000615	Chairman Administration	Briefing by the Administration	
000616 – 001300	Chairman Mr WONG Kwok-hing Mr Christopher CHUNG Administration	<p>Mr WONG Kwok-hing expressed concern about the possible overlapping of functions of the new Innovation and Technology Bureau ("ITB") with the existing Commerce and Economic Development Bureau ("CEDB"). Sharing a similar view, Mr Christopher CHUNG enquired about the rationale for not transferring the telecommunications and broadcasting portfolios under CEDB to the ITB.</p> <p>The Administration advised that the new ITB would focus on the development of innovation and technology in Hong Kong, including the commercialization of research and development ("R&D") deliverables. The telecommunications and broadcasting portfolios were more related to regulatory and licensing matters and hence not proposed to be transferred to the ITB. Nevertheless, the Administration did not rule out the possibility of reorganizing the functions of the ITB in light of new developments.</p> <p>Mr WONG Kwok-hing enquired about the work of the new ITB on coordination with tertiary institutions to foster the development of R&D.</p> <p>The Administration advised that the ITB would be in a better position to strengthen the linkages among stakeholders, including the Government, the</p>	

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		<p>industry, academic and research sectors, and creating greater synergy among Innovation and Technology Commission ("ITC") and Office of the Government Chief Information Officer ("OGCIO"), the R&D Centres and other organizations/agencies under the Secretary for Innovation and Technology ("S for IT"), through alignment or collaboration in R&D directions or programmes, exchange of information and experience, as well as promotional activities both locally and overseas.</p>	
001301–002645	<p>Chairman Mr CHUNG Kwok-pan Administration</p>	<p>Discussion on the remuneration and responsibilities of S for IT and Under Secretary for Innovation and Technology.</p> <p>Mr CHUNG Kwok-pan opined that it would be unfair for S for IT, who would only be responsible for the development of innovation and technology, to be entitled to the same remuneration as other Policy Secretaries, such as the Secretary for Commerce and Economic Development ("SCED") and the Secretary for Housing and Transport, who had to shoulder heavier policy responsibilities.</p> <p>The Administration advised that the objective of the establishment of the ITB was to recognize the importance of innovation and technology to Hong Kong's development, and to provide dedicated high level leadership in the development of innovation and technology. The workload of S for IT should not be seen only from the number of policy aspects for which the ITB was responsible. As the number of stakeholders involved in the innovation and technology industry was substantial, it would not be an easy task for S for IT to achieve the balance of interests among stakeholders. S for IT also played a leading role in undertaking this mammoth task to promote the commercialization of R&D deliverables.</p>	<p>The Secretariat to follow up as per paragraph 4 of the minutes.</p>
002646–005130	<p>Chairman Mr Charles Peter MOK Ms Claudia MO Mr Christopher CHUNG Mr Alan LEONG Administration</p>	<p>Discussion on the legislative timetable and commencement date of the proposed resolution.</p> <p>Noting that the commencement date of the proposed resolution was set on the 14th day after the date on which the Financial Committee approved the financial and staffing proposals relating to the establishment of the ITB, or on the 14th day after the date on which the proposed resolution was passed by the Council, whichever</p>	<p>The Administration to follow up as per paragraph 3(a) and (b) of the minutes.</p>

Time marker	Speaker	Subject(s)	Action required
		<p>date was later, Mr Charles Peter MOK expressed concern whether there would be sufficient time for the preparation work, including the transfer of functions, for the establishment of the ITB. Sharing a similar view, Mr Alan LEONG expressed concern that there might not be sufficient time for appointment of a suitable and qualified candidate for the post of S for IT. The Chairman and Ms Claudia MO shared a similar concern. Members enquired whether the Administration would consider extending the 14th day deadline to allow sufficient time for preparation work.</p> <p>The Administration explained that as the process of obtaining the approval of FC for the financial proposal and the legislative process for the proposed resolution were separate proceedings in parallel and the dates of their completion were unknown yet, the commencement date of the proposed resolution was therefore set on a day after both processes had been completed. The Administration considered that setting the commencement date as the 14th day after the date on which the Administration obtained the approval of FC, or the 14th day after the passage of the proposed resolution, whichever was the later, was appropriate. This had taken into account the time required for the preparation work relating to the establishment of the ITB, including the deployment of supporting staff and appointment of the Principal Official. The Administration was confident that, with its best endeavours, it would complete in good time all preparation for the new ITB to commence operation.</p> <p>Discussion on the functions to be transferred from SCED to S for IT.</p>	
005131–005610	Chairman Mr CHUNG Kwok-pan Administration	<p>Mr CHUNG Kwok-pan expressed concern that Hong Kong's gross expenditure on R&D as a ratio of Gross Domestic Product at around 0.7% remained low by international standard. He urged the Administration to increase the investment in R&D after the establishment of the ITB.</p> <p>The Administration advised that with a more focused purview, the ITB would be best placed to explore possible measures to encourage R&D investment with the industry and other bureaux, including CEDB.</p>	

Time marker	Speaker	Subject(s)	Action required
005611– 010040	Chairman Dr Elizabeth QUAT Administration	Discussion on the functions which could be performed more effectively by the ITB than by the existing CEDB.	
010041– 011000	Chairman Mr CHAN Chi-chuen Administration	<p>Mr CHAN Chi-chuen opined that the Administration should consider other alternatives to the establishment of a new bureau, such as creating a new branch under SCED to be headed by a new Permanent Secretary to oversee the technology portfolio under SCED, or creating a new political team consisting only the Policy Secretary, Under Secretary and Political Assistant to work with a redeployed civil service team headed by the Permanent Secretary for Economic Development (Communications and Technology) from CEDB.</p> <p>The Administration advised that as all the existing 21 permanent directorate officers at D2 and above in the Communications and Technology Branch of CEDB, ITC and OGCIIO were already fully engaged in their respective portfolios, it was operationally not feasible for any of them to be redeployed to take up the new policy responsibilities of the ITB. Mr CHAN Chi-chuen's proposals for redeployment was deemed not feasible, as the normal set up of a bureau should consist of the political team and the civil service team specializing in their respective spheres of responsibilities. Nevertheless, the future ITB would review its operational requirements from time to time as in the cases of all bureaux and departments.</p>	
011001 – 011800	Chairman Mr MA Fung-kwok Administration	<p>Mr MA Fung-kwok relayed the industry's concern that the portfolios relating to the creative industries, including the film portfolio, would not be transferred to the new ITB. He enquired how the creative industries would be supported with the establishment of the ITB.</p> <p>The Administration advised that the new ITB would work closely with CEDB and the various responsible departments, including ITC and OGCIIO, to provide focused support to the creative industries.</p>	
011801– 015600	Chairman ALA Dr Elizabeth QUAT Mr Alan LEONG	<p><u>Scrutiny of the resolution</u></p> <p>ALA7 advised that paragraphs (3)(d)(ii), (3)(d)(iv) and (3)(e) of the proposed resolution as drafted were</p>	

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	Mr YIU Si-wing Administration	<p>ambiguous as to whether the matters mentioned were confined to the transfer of the statutory functions under the Electronic Transactions Ordinance ("ETO") (Cap. 553).</p> <p>The Administration advised that the proposed resolution would be moved under section 54A of the Interpretation and General Clauses Ordinance ("IGCO") (Cap. 1). In light of the general principles of interpretation provided in section 19 of IGCO, paragraph (3) of the proposed resolution, which were the savings and transitional provisions relating to the transfer of the statutory functions in paragraph (2) of the proposed resolution, must be interpreted in such a way that was consistent with that transfer and could not fall outside the ambit as permitted by section 54A(2) of IGCO. It also followed that the matters provided in paragraph (3) of the proposed resolution were made pursuant to or in connection with the transfer of statutory functions under the ETO, and hence, were related and confined to the ETO. Nevertheless, the Administration would give consideration to making suitable amendments to spell out more clearly that the matters mentioned were confined to those relating to the ETO.</p> <p>Mr Alan LEONG agreed that the ambiguity mentioned by ALA7 did exist, and opined that there was a need to improve the drafting to clearly reflect the legislative intent.</p> <p>Having considered the legal adviser's concern that certain matters dealt with in paragraphs (3)(d)(iii) and (v) were not provided in the ETO, the Administration agreed to remove these paragraphs from the proposed resolution. The Administration would submit the revised draft resolution to the Subcommittee for consideration.</p> <p>Discussion on whether the transfer of other functions unrelated to the ETO should also be incorporated in the resolution.</p> <p>Discussion on the validity of any form that was specified or prescribed before the commencement date for use in connection with any function to be transferred under the proposed resolution.</p>	The Administration to follow up as per paragraph 3(c) of the minutes.

Time marker	Speaker	Subject(s)	Action required
Agenda item III – Any other business			
015601– 015950	Chairman Administration	Invitation of views Legislative timetable Date of next meeting	

Council Business Division 4
Legislative Council Secretariat
16 July 2014