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Panel on Economic Development
Meeting on 22 July 2013

Background brief on
the new regulatory regime for the tourism sector in Hong Kong

Purpose

This paper provides background information and summarizes Members' views on the introduction of a new regulatory regime for Hong Kong's tourism sector.

Background

2. In the light of incidents involving unscrupulous practices of the tourism trade relating to Mainland tour groups in 2010, the Chief Executive stated in his 2010-2011 Policy Address that the Government would review the operation and regulatory framework of the entire tourism sector, including the role, powers, responsibilities and operation of the Travel Industry Council of Hong Kong ("TIC"), as well as its working relationship with the Travel Agent Registry ("TAR")¹. In April 2011, the Government consulted the public on the options for reforming the present regulatory framework as set out in its consultation paper "Review of the Operation and Regulatory Framework of the Tourism Sector in Hong Kong".

3. The Administration released the consultation findings and announced the detailed reform proposal in December 2011. The following new regulatory framework for the tourism sector was proposed –

- (a) an independent statutory body, tentatively named the Travel Industry Authority ("TIA"), be established as the overall regulatory body of the tourism sector;

¹ Details on the establishment and functions of TIC and TAR as well as Members' views and concerns on incidents concerning unscrupulous practices relating to Mainland tour groups are given in LC Paper No. CB(1)1111/11-12(06).

- (b) the minimum capital requirement for Travel Agents Licences be raised;
- (c) a statutory licensing system for tourist guides and tour escorts be introduced;
- (d) an independent appeal mechanism be set up to handle appeals against the decisions of TIA; and
- (e) TIA, which would be mainly funded by the levy on outbound tours, licence fees from travel agents and Mainland inbound tour registration fees, should run on a self-financing basis in the long run. A one-off capital grant would be provided by the Government to support the operation of the independent body at its initial stage.

4. According to the Administration, the new regulatory regime required the drafting of new legislation to replace the current Travel Agents Ordinance (Cap. 218) ("TAO") which was expected to be introduced into the Legislative Council ("LegCo") in about two and a half years. As there may be a transition period of at least three years prior to the enactment of the new legislation, the current two-tier regulatory regime² would continue to be adopted. The Administration would explore with TIC about its involvement in the future regulatory regime with a view to tapping its expertise and strength.

Functions and composition of the proposed Travel Industry Authority

5. The Administration has advised that the proposed TIA would have the following functions and powers –

- (a) licensing of travel agents, tourist guides and tour escorts;
- (b) drawing up codes of conduct, guidelines, and directives to govern the work of travel agents, tourist guides and tour escorts, and regular monitoring of their work;
- (c) handling complaints against travel agents, tourist guides and tour escorts;
- (d) investigating suspected breaches of the provisions of the relevant legislation, codes of conduct, guidelines and directives by travel agents, tourist guides or tour escorts and taking disciplinary action

² The Government enacted TAO in 1985 to make it mandatory for all outbound travel agents to be licensed. TAR was set up in the same year to implement the TAO provisions, in particular the licensing 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 business as an outbound travel agent was required to be a member of TIC before they were eligible for applying for a travel agent's licence from TAR.

where appropriate;

- (e) advising the Government on matters relating to the regulation of the tourism sector; and
- (f) managing the Travel Industry Compensation Fund.

6. Under the new regulatory regime, TIA would be the sole regulatory body of the tourism sector. It would take over the current regulatory functions of TIC and TAR, the advisory functions of the Advisory Committee on Travel Agents and the functions of the Travel Industry Compensation Fund Management Board.

7. The Administration has proposed that all members of the TIA Board be appointed by the Government. To ensure credibility and independence of TIA, the Chairman should be a non-trade member, and that non-trade members drawn from different professions should form the majority. However, there should be adequate trade members serving the TIA Board and its Committees to ensure that TIA possesses the necessary knowledge and expertise in the operation of the trade. Representatives of tourist guides and tour escorts would also be appointed to reflect the interests and concerns of these practitioners in TIA.

Concerns expressed by Members in previous discussions

Council questions

8. 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 the 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 TIC's levy and monitoring of TIC's operation.

9. In reply to the question raised by Hon WONG Ting-kwong on 20 March 2013, the Administration advised that the draft legislation for the establishment of TIA was expected to be introduced into LegCo around mid-2014. TAO and the current regulatory regime would remain in force until the establishment of TIA, and TIC would continue to regulate and penalize any non-compliance of travel agents. During the transition period, TIC would continue to handle non-compliance cases in a serious manner and TAR would step up its surveillance work to ensure the normal operation of the industry.

Panel discussions

10. The Administration briefed the Panel on Economic Development ("the Panel") on the substantive reform proposal on the new regulatory framework for the tourism sector on 27 February 2012. The major views and concerns expressed by members are set out in ensuring paragraphs.

11. On the composition of the TIA Board, a member opined that the ratio of members from the trade to those from the public and the Government might be specified in the relevant legislation. Moreover, to enhance transparency, unless confidential or personnel matters were discussed, all meetings of TIA should be made open. The Administration advised that to ensure credibility and independence of TIA, the Chairman should be a non-trade member, and that non-trade members drawn from different professions should form the majority. The Administration had also proposed that there should be adequate trade members serving the TIA Board and its committees to ensure that TIA would possess the necessary knowledge and expertise in the operation of the trade. As such, while all members of the TIA Board would be appointed, the Administration would also consider the views of the trade and the public on how trade members were to be selected and on their number when finalizing the relevant details. As regards the way in which TIA should conduct its meetings, the Administration advised that it would make reference to practices of similar set-ups while giving due regard to the need to ensure transparency and accountability of TIA.

12. Some members were concerned that it would be unfair to outbound travel agents if they had to share the financial cost for the new regulatory framework which was devised to deal with malpractices arising from the Mainland inbound group tours. There was a suggestion that the cost of regulation of the tourism sector should be shouldered by the Government in the light of the economic benefits brought by tourism. Members also stressed the need to avoid substantially increasing the operating costs of the trade upon establishment of TIA, and causing an unreasonable burden to the travelling public.

13. In response to members' concerns, the Administration proposed that TIA should operate on a self-financing basis in the long run, and its sources of funding would include the licence fees from travel agents, levy on outbound tours, and registration fees for Mainland inbound tours. With a view to achieving self-financing in the long run, TIA would inevitably have to adjust its fees by adopting an incremental approach. To reduce the impact on the industry, particularly having regard to the affordability of small and medium sized travel agents, the Administration did not propose any increase to the existing licensing fees and levy immediately upon the establishment of TIA.

14. Members urged the Administration to ensure that the functions of the future TIA would not duplicate with those of TIC. The Administration advised that TIC was familiar with the operation of the trade and had accumulated years of regulatory experience. With a view to tapping TIC's expertise and strength, the Government would enter into discussions with TIC to explore its involvement in the future regulatory regime, and to examine the possibilities of entrusting to it certain non-regulatory public functions, such as coordinating the trade in dealing with emergency incidents involving inbound or outbound tours.

Latest development

15. The Administration will brief the Panel on the latest progress in taking forward the reform of the new regulatory regime for the tourism sector in Hong Kong.

References

16. A list of the relevant papers with their hyperlinks is in http://www.legco.gov.hk/database/english/data_es/es-tourism-sector.htm.

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