

立法會
Legislative Council

LC Paper No. LS30/16-17

**Paper for the House Committee Meeting
on 10 February 2017**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 3 February 2017**

Tabling in LegCo : Council meeting of 8 February 2017

Amendment to be made by : Council meeting of 1 March 2017 (or that of 29 March 2017 if extended by resolution)

Patents Ordinance (Amendment of Schedule 1) Order 2017 (L.N. 16)

Registered Designs Ordinance (Amendment of Schedule) Regulation 2017 (L.N. 17)

Trade Marks Ordinance (Amendment of Schedule 1) Regulation 2017 (L.N. 18)

Layout-design (Topography) of Integrated Circuits (Designation of Qualifying Countries, Territories or Areas) (Amendment) Regulation 2017 (L.N. 19)

L.N. 16, L.N. 17 and L.N. 18 are made by the Chief Executive ("CE") in Council under section 153 of the Patents Ordinance (Cap. 514), section 83 of the Registered Designs Ordinance (Cap. 522) and section 92 of the Trade Marks Ordinance (Cap. 559) respectively, and L.N. 19 is made by CE under section 24 of the Layout-design (Topography) of Integrated Circuits Ordinance (Cap. 445) after consultation with the Executive Council.

2. L.N. 16 to L.N. 18 amend the respective Schedules to Cap. 514, Cap. 522 and Cap. 559 to update the list of World Trade Organization¹ ("WTO") members as set out in these Schedules by –

¹ Established in Geneva on 1 January 1995 under the World Trade Organization Agreement.

- (a) adding "The Islamic Republic of Afghanistan" to the list of WTO member countries, territories and areas (not including Paris Convention countries)² in Schedule 1 to Cap. 514 (L.N. 16);
- (b) adding "The Islamic Republic of Afghanistan" to the list of countries, territories and areas which have acceded to the WTO Agreement (not including countries which have acceded to the Paris Convention)³ in the Schedule to Cap. 522 (L.N. 17); and
- (c) adding "The Islamic Republic of Afghanistan", "The Republic of Kazakhstan", "The Republic of Liberia" and "The Republic of Seychelles" to the list of countries, territories and areas which have acceded to the WTO Agreement in Schedule 1 to Cap. 559 (L.N. 18).

3. L.N. 19 amends the Schedule to the Layout-design (Topography) of Integrated Circuits (Designation of Qualifying Countries, Territories or Areas) Regulation (Cap. 445B) to reflect the changes in the WTO membership by adding "The Islamic Republic of Afghanistan", "The Republic of Kazakhstan", "The Republic of Liberia" and "The Republic of Seychelles" to the list of qualifying countries, territories or areas in the Schedule.

4. The effect of L.N. 16 to L.N. 18 is that a person who has filed an application for a patent or other protection in respect of an invention, or for registration of a design or trade mark, in or for any of the newly added WTO member countries, territories or areas will enjoy a right of priority during a prescribed period for the purpose of filing the application in respect of the same invention, design or trade mark in Hong Kong. The effect of L.N. 19 is that the nationals of the newly added WTO members will enjoy the same level of intellectual property protection for layout-designs (topographies) of integrated circuits that is given to Hong Kong residents.

5. According to paragraph 7 of the LegCo Brief (File Ref.: CITB 80/18/2) issued by the Commerce and Economic Development Bureau in February 2017, subsequent to the last revision exercise in 2015 (L.N. 121 to L.N. 124 of 2015), there was no new accession to the Paris Convention and four more countries, namely the Islamic Republic of Afghanistan, the Republic of

² Three of the newly added WTO members, namely the Republic of Kazakhstan, the Republic of Liberia and the Republic of Seychelles, are Paris Convention countries and have already been included in the list of Paris Convention countries in Schedule 1 to Cap. 514.

³ Three of the newly added WTO members, namely the Republic of Kazakhstan, the Republic of Liberia and the Republic of Seychelles, are Paris Convention countries and have already been included in the list of Paris Convention Countries and WTO Members Countries which have acceded to the Paris Convention in the Schedule to Cap 522.

Kazakhstan, the Republic of Liberia and the Republic of Seychelles have become members of the WTO⁴. Members may refer to the LegCo Brief for background information.

6. L.N. 16 to L.N. 19 come into operation on 1 April 2017.

7. The Clerk to the Panel on Commerce and Industry has advised that the information paper provided by the Administration on the four pieces of subsidiary legislation has been circulated to members of the Panel vide LC Paper No. CB(1)115/16-17(05) issued on 11 November 2016. Panel members noted at the meeting held on 15 November 2016 that the proposed amendments to the relevant schedules sought to reflect the updated membership position of the WTO.

8. No difficulties have been identified in the legal and drafting aspects of the above items of subsidiary legislation.

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⁴ The Republic of Kazakhstan, the Republic of Liberia and the Republic of Seychelles became parties to the Paris Convention in 1991, 1994 and 2002 respectively.