

立法會
Legislative Council

LC Paper No. CB(1)780/16-17
(These minutes have been seen
by the Administration)

Ref : CB1/PL/CI

Panel on Commerce and Industry

Minutes of meeting
held on Tuesday, 21 February 2017, at 2:30 pm
in Conference Room 1 of the Legislative Council Complex

- Members present** : Hon WU Chi-wai, MH (Chairman)
Hon SHIU Ka-fai (Deputy Chairman)
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon WONG Ting-kwong, SBS, JP
Hon CHAN Kin-por, BBS, JP
Hon Paul TSE Wai-chun, JP
Hon LEUNG Kwok-hung
Hon MA Fung-kwok, SBS, JP
Hon Charles Peter MOK, JP
Hon CHAN Chi-chuen
Hon Christopher CHEUNG Wah-fung, SBS, JP
Dr Hon Fernando CHEUNG Chiu-hung
Dr Hon Elizabeth QUAT, JP
Hon Martin LIAO Cheung-kong, SBS, JP
Dr Hon CHIANG Lai-wan, JP
Ir Dr Hon LO Wai-ki, SBS, MH, JP
Hon CHUNG Kwok-pan
Hon CHU Hoi-dick
Hon Jimmy NG Wing-ka, JP
Hon CHAN Chun-ying
Hon Tanya CHAN
Hon LAU Kwok-fan, MH
Dr Hon YIU Chung-yim
- Member attending** : Hon Holden CHOW Ho-ding

Members absent : Hon Mrs Regina IP LAU Suk-ye, GBS, JP
Hon YIU Si-wing, BBS
Hon Dennis KWOK Wing-hang

Public officers attending : Agenda item IV

Innovation and Technology Bureau

Mr Nicholas W YANG, JP
Secretary for Innovation and Technology

Ms Annie CHOI, JP
Commissioner for Innovation and Technology

Mrs Millie NG
Deputy Secretary for Innovation and Technology

Mr Johann WONG, JP
Deputy Commissioner for Innovation and Technology

Mr Victor LAM, JP
Deputy Government Chief Information Officer
(Infrastructure and Operations)

Mr Bryan HA
Assistant Commissioner for Innovation and
Technology (Funding Schemes)

Agenda item V

Commerce and Economic Development Bureau

Ms Fabia TAM
Principal Assistant Secretary for Commerce and
Economic Development (Commerce and Industry)³

Intellectual Property Department

Ms Maria NG
Deputy Director of Intellectual Property

Ms Elsie TSE
Assistant Director of Intellectual Property
(Registration)

Ms Winnie NG
Senior Solicitor (Registration)2

Clerk in attendance : Mr Desmond LAM
Chief Council Secretary (1)3

Staff in attendance : Ms Connie HO
Senior Council Secretary (1)3

Mr Joey LO
Senior Council Secretary (1)8

Miss Judy YEE
Council Secretary (1)3

Ms May LEUNG
Legislative Assistant (1)3

Miss Zoe YIP
Clerical Assistant (1)3

Action

I. Information papers issued since last meeting

(File Ref: CITB CR 102/53/1 -- Legislative Council Brief on
United Nations Sanctions
(Somalia) (Amendment)
Regulation 2017

LC Paper No. CB(1)557/16-17(01) -- Information paper on "Hong
Kong/Shenzhen Co-operation
Meeting")

Members noted the above papers issued since the last meeting.

II. Date of next meeting and items for discussion

(LC Paper No. CB(1)555/16-17(01) -- Revised List of outstanding items
(tabled at the meeting and for discussion
subsequently issued on 22 February
2017)

LC Paper No. CB(1)555/16-17(02) -- Revised List of follow-up actions)

2. The Chairman referred to the revised "List of outstanding items for discussion" of the Panel tabled at the meeting and reminded members that a joint meeting with the Panel on Development ("Dev Panel") and the Panel on Information Technology and Broadcasting ("ITB Panel") would be held on Monday, 6 March 2017, from 2:30 pm to 6:30 pm to discuss with the Administration on the "Hong Kong-Shenzhen Innovation and Technology Park in the Lok Ma Chau Loop". As agreed at the Panel meeting on 25 January 2017 and with the concurrence of the Chairmen of Dev Panel and ITB Panel, members of the three Panels and other Members were invited, vide LC Paper No. CB(1) 510/16-17 issued on 27 January 2017, to submit their questions relating to the above project and/or requests for disclosure of relevant papers and documents to the Administration for response. The Administration would address the issues in the relevant discussion paper, and provide written replies to members' questions prior to the meeting. Four members had submitted their written questions to the Secretariat by the deadline for reply on 10 February 2017.

3. Members also noted that the next regular meeting would be held on 21 March 2017 at 2:30 pm to discuss the item of "Policy on re-industrialization and the latest development of the industrial estates and Hong Kong Science Park". The Chairman advised that the two discussion items originally proposed for the meeting had been combined into one to facilitate a more focused discussion on the subject of re-industrialization and the related policy initiatives implemented in the Hong Kong Science Park and industrial estates.

III. Proposal for setting up a joint subcommittee under the Panel on Health Services and the Panel on Commerce and Industry on issues relating to the regulation of devices and development of the beauty industry

(LC Paper No. CB(1)540/16-17(01) -- Letter dated 3 February 2017 from Hon SHIU Ka-fai)

4. At the invitation of the Chairman, Mr SHIU Ka-fai, Deputy Chairman briefed members on the proposal for setting up a joint subcommittee under the Panel on Health Services ("HS Panel") and the Panel on issues relating to the regulation of devices and development of the beauty industry ("the Proposal").

5. Dr Elizabeth QUAT and Dr CHIANG Lai-wan expressed support for the Proposal. Dr QUAT considered that it was unreasonable for some devices commonly used in cosmetic procedures being classified as medical devices and subject to use control under the regulatory framework of medical devices proposed

by the Administration. Opining that such a proposal might impede the development of the beauty industry, Dr QUAT urged the Administration not to take forward the proposal before the proposed joint subcommittee could reach a conclusion on the issue. Dr CHIANG criticized the Administration for the lack of specific policy support to foster the development of the beauty industry in the past.

6. Pointing out that the beauty industry had been criticized for its trade practices and not the use of devices, Mr WONG Ting-kwong considered that the proposed joint subcommittee should look into ways to improve the trade practices of the industry. Whilst expressing support for the Proposal, Mr CHAN Chi-chuen urged the Administration to present the road map in respect of the regulation of medical devices as soon as possible, having regard to the views expressed by deputations from the beauty industry and members at the meeting of HS Panel on 13 February 2017. Mr LAU Kwok-fan expressed support for the Proposal and considered that the Administration should strike a balance between regulating the beauty industry and safeguarding consumers' safety.

7. The Chairman concluded that the Panel generally supported the Proposal and raised no objection to the terms of reference and work plan of the proposed joint subcommittee set out in the Proposal. The Proposal would be referred to the HS Panel for consideration. Members also noted that there were currently 10 subcommittees on policy issues formed under Panels or the House Committee ("HC") in operation, which had reached the maximum number of subcommittees appointed by Panels and HC that might be in operation at any one time. Noting that should HS Panel agree to the Proposal, the proposed joint subcommittee would, pursuant to rule 26(b) of the House Rules, be the sixth on the waiting list of subcommittees on policy issues to be activated, Mr WONG Ting-kwong and Dr Elizabeth QUAT suggested that a joint meeting with HS Panel be held in the interim to discuss issues relating to the regulation of devices and development of the beauty industry. The Chairman directed that the suggestion be referred to the Chairman of HS Panel for consideration.

(Post-meeting note : The Clerk had, vide a memo dated 23 February 2017 to the Clerk to HS Panel, referred the Proposal and the above suggestion of holding a joint meeting to the Chairman of HS Panel for consideration. At the meeting on 28 February 2017, HS Panel agreed with the Proposal and the suggestion to hold a joint meeting. The Secretariat would follow up the arrangement of the joint meeting.)

IV. Technology Voucher Programme and Government procurement policy
(LC Paper No. CB(1)555/16-17(03) -- Administration's paper on "Technology Voucher Programme and Government Policy on Procuring Information and Communications Technology Products")

LC Paper No. CB(1)555/16-17(04) -- Paper on the Pilot Technology Voucher Programme and related Government procurement policy prepared by the Legislative Council Secretariat (background brief)

Presentation by the Administration

8. At the invitation of the Chairman, Secretary for Innovation and Technology ("S for IT") briefed members on the implementation of the Technology Voucher Programme ("TVP"), which was launched in November 2016 with a view to helping small and medium enterprises ("SMEs") enhance competitiveness through the use of technologies. Members were also briefed on the measures adopted by the Government in the procurement of information and communications technology ("ICT") products and services to facilitate SMEs in bidding for such contracts. Details were set out in the Administration's paper (LC Paper No. CB(1)555/16-17(03)).

Discussion

Role of "technology consultant" in projects funded under the Technology Voucher Programme

9. Mr CHAN Chi-chuen said that many intermediaries had been promoting consultancy services on TVP to SMEs, and some of them even claimed that no fees would be charged to the TVP applicant enterprises if the applications were unsuccessful. Mr Charles Peter MOK said that professional information technology ("IT") consultants in the industry were concerned about some intermediaries claiming themselves as technology consultants. Mr MOK and Mr CHAN urged the Administration to step up publicity and education to enhance SMEs' understanding of the requirements and application procedures of TVP.

10. Dr Elizabeth QUAT sought clarifications on the role of "technology consultant" in TVP projects. As some SMEs got the impression that engaging a technology consultant was a compulsory requirement of TVP projects, Dr QUAT

considered that the Administration should clarify the application requirements and procedures of TVP in relevant publicity materials and provide information on the website of the Innovation and Technology Commission ("ITC") to prevent unscrupulous intermediaries from profiteering from the programme.

11. S for IT said that the engagement of technology consultants was not a compulsory requirement under TVP. Commissioner for Innovation Technology ("CIT") added that it was stipulated in the Guidance Notes for Applications ("Guidance Notes") of TVP that there should not be any conflict of interest between the service providers and applicant enterprises of TVP projects. CIT said that it was not mandatory for SMEs to engage consultants or intermediaries to assist in preparing the applications. The term "technology consultant", which was also commonly called "solution provider" in the technology sector, referred to professional consultants who provided tailor-made integrated technological solutions comprising both hardware and software to their clients.

12. On the publicity and education front, CIT said that ITC had, since the launch of TVP, organized nine briefing sessions to explain the details of TVP to SMEs and different industry sectors. The briefing sessions had attracted over 1 300 attendees and more would be arranged in future on a need basis. CIT assured members that ITC would step up publicity and education to enhance SMEs' understanding of the application procedures and the relevant requirements.

13. Given that the demand of SMEs in respect of technological solutions was quite similar, Mr Charles Peter MOK suggested that the Administration should consider providing a standard list of technological services and solutions that would be supported under TVP for direct procurement of SMEs. The provision of such a list would dispense SMEs with the need to engage technology consultants on one hand while expediting the processing of TVP applications on the other. In response, CIT said that a list of typical technological services and/or solutions covered by TVP was provided in Annex B to the Guidance Notes for reference of applicant enterprises.

14. The Chairman and Mr CHAN Chi-chuen enquired about the respective proportions of local and non-local service providers/technology consultants engaged under the 23 TVP projects that had been assessed by the TVP Committee up to early February 2017. CIT said that as noted from the 136 applications received and the 21 applications approved since the launch of TVP in last November up to end January 2017, about 80% of the service providers engaged by the applicant enterprises were local technology companies, while the remaining 20% were overseas or Mainland technology companies, most of which had branch offices in Hong Kong.

15. Dr YIU Chung-yim noted that when an SME engaged a technology consultant for a TVP project, the consultant concerned should be a local university, research institution or a company registered under the Business Registration Ordinance (Cap. 310) ("BRO"). Pointing out that staff of local universities were not keen to take up consultancy work for private enterprises as such undertakings were not encouraged by universities, Dr YIU enquired what measures would be introduced by the Administration to encourage university staff to serve as technology consultants of TVP projects.

16. In response, S for IT said that local universities had been collaborating with private enterprises in conducting applied research projects under the University-Industry Collaboration Programme of the Innovation and Technology Fund. CIT added that it would be up to the applicant enterprises to decide whether local universities, research institutions or other companies registered under BRO should be engaged as service providers of their TVP projects, and the Administration would stay neutral in this regard.

Expediting the processing of TVP applications

17. Relaying the concern of SMEs about the slow approval process of TVP applications, Mr Charles Peter MOK and Dr Elizabeth QUAT urged the Administration to expedite the processing of TVP applications. Mr MOK enquired about the vetting procedures of the applications adopted by the TVP Committee.

18. S for IT responded that the TVP Committee, which comprised representatives from the business sector, technology sector, professional services sector and relevant Government departments, was responsible for the vetting of TVP applications. CIT added that to expedite the approval process, straightforward applications would be submitted to the TVP Committee for approval by circulation while those requiring special consideration of the Committee would be deliberated at its bi-monthly meetings.

19. The Chairman and Mr Charles Peter MOK enquired about the circumstances under which TVP projects would require special consideration by the TVP Committee, and whether the justifications for approval of such applications would be put on record and made public. CIT responded that applications which might require special consideration of the TVP Committee included, for example, cases where the proposed technological services/solutions were less common, or the expenditure incurred for the procurement of readily available technological products/services constituted over 50% of the total project cost. ITC would keep internal records on all the applications vetted by the TVP Committee.

20. The Chairman and Mr Charles Peter MOK also enquired whether information on approved TVP projects would be made public to enhance the transparency of TVP and serve as a reference for the industry. CIT responded that key information of approved TVP projects which was not commercially sensitive, such as the names of applicant enterprises, the type of technological services/solutions involved and the amount of grant approved etc., would be uploaded onto ITC's website.

21. The Chairman enquired whether the Administration would conduct an interim review of TVP. CIT said that ITC had been closely monitoring the implementation of TVP and making continuous enhancements to the implementation details, such as improving the clarity of information provided in relevant publicity materials and simplifying the application procedures. ITC would, with the accumulation of more applications and operation experience, conduct a comprehensive review of TVP at an appropriate juncture.

Mode of funding

22. Mr NG Wing-ka said that the commerce and industry sector welcomed the implementation of TVP to subsidize local SMEs in using technological services and solutions to improve productivity, or upgrade or transform their business processes, and enquired about the funding mode of TVP.

23. CIT responded that TVP provided a cumulative funding of up to \$200,000 for each eligible SME on a 2:1 matching basis to carry out a maximum of three approved projects. Each project should normally be completed within 12 months. To ensure proper focus on project implementation, an SME could not undertake more than one TVP project at the same time.

Measures to encourage SMEs to bid for government IT projects

24. Pointing out that the proportion of government IT contracts being awarded to SMEs under the Standing Offer Agreement for Quality Professional Services ("SOA-QPS") was about 24%, Dr Elizabeth QUAT urged the Administration to introduce measures to facilitate SMEs' participation in Government's IT projects. Mr Charles Peter MOK asked whether the Administration would accord priority to local SMEs in awarding Government IT contracts despite the restrictions posed by the Agreement on Government Procurement of the World Trade Organization ("WTO GPA").

25. S for IT said that without violating the WTO GPA, the Administration had introduced facilitation measures to encourage local SMEs to bid for government IT projects. Deputy Government Chief Information Officer (Infrastructure and Operations) ("DGCIO(IO)") added that the Office of the Government Chief

Information Officer ("OGCIO") had introduced a number of enhancements to the tendering process of SOA-QPS4. These included, among others, raising the contract value limit for "minor groups", which were created under service categories (2) and (3) (i.e. "on-going services" and "system development and implementation services") of IT professional services under the agreement, from \$1.43 million to \$3 million, such that SMEs could participate in Government projects of higher value. It was also stipulated that the same supplier could only bid for either the minor or major group of the relevant service category, in order to allow more SMEs to participate in Government projects. In addition, the essential requirement for tendering in some service categories had been lowered by reducing the aggregate business volume of the bidders over the past three years to about one third of the current level, in order to attract more SMEs to submit tenders. OGCIO had conducted a pre-tender briefing of SOA-QPS4 for the industry, and the participants' responses to the above enhancement measures were generally positive.

26. Mr Charles Peter MOK referred to his letter to OGCIO in March 2016 relaying the views of the local IT sector on enhancing the weighting of technical aspect in the tender assessment of Government IT projects, and enquired whether the Administration would take heed of the relevant views in procuring ICT services and products. Mr MOK was concerned that the Administration's prevailing practice of awarding Government IT contracts to the lowest offers submitted by bidders might suppress the project costs, thereby affecting the remuneration of IT professionals working in private companies.

27. DGCIO(IO) said that relevant enhancements had been made to the tendering process of SOA-QPS4 in light of the industry's views. For instance, more emphasis would be put on the technical aspect in Government bureaux/departments' technical and price assessments for individual projects. In some relevant projects, such as strategic studies, and design and implementation of reliable and quality IT solutions, the price/technical ratio had been changed to 6:4 from the commonly adopted ratio of 7:3, in order to reflect the importance of innovative and technical elements of these projects.

Promoting the use of Government data

28. In response to the Chairman's and Mr LEUNG Kwok-hung's enquiry, S for IT said that application programming interfaces were released to facilitate public use of Government data, and specific strategies promoting the use of Government data by the public would be set out in the Smart City Blueprint for Hong Kong. The relevant consultancy study was expected to be completed around mid-2017.

Summing up

29. The Chairman summarized that while members welcomed the implementation of TVP in general, the Administration was requested to simplify the application procedures, and to provide clear and accurate information to SMEs in connection with the requirements of TVP. To enhance public confidence in TVP, the Chairman suggested that ITC could make reference to the relevant arrangements of the Enhancing Self-Reliance Through District Partnership Programme under the Home Affairs Department, and make public the pertinent information of approved TVP projects.

V. Application of the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks to the Hong Kong Special Administrative Region

(LC Paper No. CB(1)555/16-17(05) -- Administration's paper on "Proposed Application of the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks to the Hong Kong Special Administrative Region: Updates on Developments and Proposed Implementation Arrangements"

LC Paper No. CB(1)555/16-17(06) -- Paper on the application of the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks to the Hong Kong Special Administrative Region prepared by the Legislative Council Secretariat (updated background brief))

Presentation by the Administration

30. At the invitation of the Chairman, Principal Assistant Secretary for Commerce and Economic Development (Commerce and Industry)³ ("PASCED(C&I)3") briefed members on the latest developments and the way forward for the proposed application of the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks ("Madrid Protocol") to the Hong Kong Special Administrative Region, details of which were set out in the Administration's paper (LC Paper No. CB(1)555/16-17(05)).

Discussion*Impact on the business of local trade mark agents*

31. Dr YIU Chung-yim enquired about the negative impact on the business of local trade mark agents which might be brought about by the proposed application of the Madrid Protocol to Hong Kong.

32. Deputy Director of Intellectual Property ("DDIP") said that upon the implementation of the Madrid Protocol in Hong Kong, overseas applicants could seek trade mark protection in Hong Kong by filing an international application designating Hong Kong, thus dispensing them with the need to engage a local trade mark agent to handle the applications. In this connection, the local trade mark agents had expressed concern about the possible lack of practical benefits and adverse effect of the proposal on the local trade mark profession as a result of a reduction of locally filed trade mark applications.

33. DDIP explained that the above possible adverse impact on the local trade mark profession might be off-set by a number of factors. As the Madrid Protocol was an international agreement and hence was not applicable to mutual designation between the Mainland and Hong Kong, Mainland applicants could not designate Hong Kong in their international applications made under the Madrid System. While over 60% of local applications at present were filed by applicants from the Mainland, Taiwan, Hong Kong and some other countries which had yet to join the Madrid Protocol, such local applications should not be affected by the implementation of the Madrid Protocol in Hong Kong. Moreover, given the enhanced awareness on intellectual property protection, the overall number of trade mark registrations worldwide and the number of international applications under the Madrid Protocol had, according to the statistical data of the World Intellectual Property Organization, increased by 13% and 20% respectively in 2015. The Administration projected that the business of the local trade mark agents might be slightly affected upon the implementation of the Madrid Protocol in Hong Kong in the short term. Yet, over the longer term, the increase in the utilization of the Madrid System and the designations to Hong Kong might result in more local agents being engaged in handling an increasing volume of provisional refusals or oppositions.

Implementation time table and transitional arrangement

34. The Chairman and Dr YIU Chung-yim enquired about the implementation time table of the Madrid Protocol in Hong Kong. Dr YIU also asked whether the Administration would put in place transitional arrangements to allay the concerns of the local trade mark agents.

35. DDIP responded that to implement the Madrid Protocol in Hong Kong, the Administration would proceed to prepare legislative proposals to amend the principal Ordinance (i.e. Trade Marks Ordinance (Cap. 559)) and its subsidiary legislation (i.e. Trade Marks Rules (Cap. 559A)) and set up the necessary information technology system etc. The Administration aimed to submit the legislative proposals concerning the amendments to the principal Ordinance and its subsidiary legislation to the Legislative Council ("LegCo") in end 2017 or early 2018 and end 2018 or early 2019 respectively. Subject to the progress of preparatory work, the Administration planned to liaise with the Central People's Government to seek application of the Madrid Protocol to Hong Kong in 2019 the earliest. Since it would take about three years to implement the Madrid Protocol in Hong Kong, the local trade mark agents should have sufficient time to prepare for the implementation.

36. The Chairman asked whether the Intellectual Property Department ("IPD") would need additional manpower at the directorate level to take forward the implementation of the Madrid Protocol in Hong Kong. PASCED(C&I)3 responded that the relevant work was currently undertaken by existing staffing of IPD (i.e. Assistant Director of Intellectual Property (Registration) and the Registration Team). The Administration would keep in view the workload of IPD and would not rule out the possibility of requiring additional staffing at the directorate level in the future.

Summing up

37. The Chairman concluded that the Panel supported in principle the implementation of the Madrid Protocol in Hong Kong, and requested the Administration to report the progress of implementation to the Panel at an appropriate juncture.

VI. Any other business

(LC Paper No. CB(1)555/16-17(07) -- Invitation from S Rajaratnam School of International Studies ("RSIS") inviting nominations of two Legislative Council Members to join RSIS-World Trade Organization Parliamentarian Workshop on International Trade 2017 to be held in Singapore from 15 to 17 May 2017 (Restricted to members only))
(*English version only*)

38. The Panel noted the invitation from the Centre for Multilateralism Studies of the S Rajaratnam School of International Studies ("RSIS") to LegCo for nomination of two Members to join the RSIS and World Trade Organization Parliamentarian Workshop on International Trade 2017 ("the Workshop") to be held in Singapore from 15 to 17 May 2017. As the theme of the Workshop fell within the terms of reference of the Panel, members agreed to accept the invitation to nominate two Members to participate in the Workshop and to open the invitation to all other LegCo Members. It was also agreed that if more than two Members had indicated interest in joining the Workshop, a ballot would be conducted by the Panel Chairman for determining the two nominations for the workshop. Otherwise, Members would be informed of the nominations by circulation.

39. Members noted that the nominations required the endorsement of the House Committee ("HC") and the expenses incurred by Members nominated to attend the Workshop would be charged to individual Members' overseas duty visit ("ODV") accounts. Participating Members were required to provide a report to HC after their return to Hong Kong.

(Post-meeting note: A circular (LC Paper No. CB(1)594/16-17) was issued to Panel members and copied to all other Members on 22 February 2017 inviting them for indication of interest to the Workshop. By the deadline for reply on 28 February 2017, Hon Alvin YEUNG (non-Panel member) and Dr Hon YIU Chung-yim (Panel member) had indicated their interest in attending the Workshop. Members were informed vide LC Paper No. CB(1)634/16-17 issued on 2 March 2017 that subject to members' agreement, HC's approval for the nomination of Hon Alvin YEUNG and Dr Hon YIU Chung-yim to the Workshop and for the related expenses charged to the participating Members' ODV accounts would be sought at the HC meeting on 24 March 2017. The Secretariat had received no objection from Members to the above arrangement by the deadline for reply on 3 March 2017.)

40. There being no other business, the meeting ended at 3:59 pm.