

立法會
Legislative Council

LC Paper No. CB(1)1294/16-17

(These minutes have been seen
by the Administration)

Ref : CB1/PL/CI

Panel on Commerce and Industry

Minutes of meeting
held on Tuesday, 16 May 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 Charles Peter MOK, JP
Hon CHAN Chi-chuen
Hon Dennis KWOK Wing-hang
Hon Christopher CHEUNG Wah-fung, SBS, JP
Hon Martin LIAO Cheung-kong, SBS, JP
Dr Hon CHIANG Lai-wan, JP
Ir Dr Hon LO Wai-kwok, SBS, MH, JP
Hon CHUNG Kwok-pan
Hon Jimmy NG Wing-ka, JP
Hon CHAN Chun-ying
Hon Tanya CHAN
Hon LAU Kwok-fan, MH
- Member attending** : Dr Hon Fernando CHEUNG Chiu-hung
- Members absent** : Hon Mrs Regina IP LAU Suk-ye, GBS, JP
Hon LEUNG Kwok-hung
Hon YIU Si-wing, BBS
Hon MA Fung-kwok, SBS, JP
Dr Hon Elizabeth QUAT, JP
Hon CHU Hoi-dick
Dr Hon YIU Chung-yim

Public officers attending : Agenda item IV

Ms Annie CHOI, JP
Commissioner for Innovation and Technology

Mr Johann WONG, JP
Deputy Commissioner for Innovation and Technology

Mrs Millie NG
Deputy Secretary for Innovation and Technology

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

Agenda Item V

Mr Gary POON
Deputy Secretary for Commerce and Economic Development (Commerce and Industry)²

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

Ms Maria NG
Deputy Director of Intellectual Property

Ms Joyce POON
Assistant Director of Intellectual Property (Copyright)

Ms Emily WONG
Senior Solicitor (Copyright) 1
Intellectual Property Department

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

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

Ms May LEUNG
Legislative Assistant (1)3

Miss Zoe YIP
Clerical Assistant (1)3

Action

I. Confirmation of minutes of meeting

(LC Paper No. CB(1)917/16-17 -- Minutes of meeting held on 21 March 2017)

The minutes of the meeting held on 21 March 2017 were confirmed.

II. Information paper issued since last meeting

(File Ref: CITB CR 75/53/8 and -- Legislative Council Briefs on
CITB CR 75/53/9 United Nations Sanctions
(Central African Republic)
Regulation 2017 and United
Nations Sanctions (Yemen)
Regulation 2015 (Amendment)
Regulation 2017)

2. Members noted the above paper issued since the last meeting.

III. Date of next meeting and items for discussion

(LC Paper No. CB(1)916/16-17(01) -- List of outstanding items for discussion

LC Paper No. CB(1)916/16-17(02) -- List of follow-up actions)

3. Members noted that the next regular Panel meeting would be held on 20 June 2017 at 2:30 pm to discuss the following items proposed by the Administration –

(a) Progress report on Research and Development Centres for 2016-2017; and

(b) Promotion of inward investment.

4. At the invitation of the Chairman, the Clerk updated members on the progress of the proposed overseas duty visit to Israel. Members noted that following the Panel's decision at its meeting on 21 March 2017 to accept the invitation of the Consul General of Israel in Hong Kong Special Administrative

Region and Macau Special Administrative Region ("Consul General of Israel") to undertake a duty visit to Israel, all Members were invited vide LC Paper No. CB(1)889/16-17 on 27 April 2017 to indicate whether they would join the visit. By the deadline of reply on 5 May 2017, 12 Members, including nine Panel members and three non-Panel Members, indicated that they would join the visit. An informal meeting between delegation members and the Consul General of Israel would be held on 23 May 2017 to exchange views on the visit programme. Members would be informed of the progress of the visit at the Panel meeting on 20 June 2017.

(Post-meeting note: The proposed duty visit was endorsed by the House Committee at its meeting 16 June 2017. The delegation comprised 11 Members, including eight Panel-members and three non-Panel Members, as of 12 July 2017.)

IV. Progress on the recent implementation of various new schemes under the Innovation and Technology Fund

(LC Paper No. CB(1)916/16-17(03) -- Administration's paper on "Implementation Progress of New Funding Schemes under the Innovation and Technology Fund"

LC Paper No. CB(1)916/16-17(04) -- Paper on the initiatives for promotion of innovation and technology under the Innovation and Technology Fund prepared by the Legislative Council Secretariat (updated background brief))

Presentation by the Administration

5. At the invitation of the Chairman, Commissioner for Innovation and Technology ("CIT") briefed members on the implementation progress of various funding schemes under the Innovation and Technology Fund ("ITF"), namely the Enterprise Support Scheme ("ESS"), the Midstream Research Programme for Universities, the Technology Voucher Programme ("TVP"), the R&D Cash Rebate Scheme ("CRS"), the Public Sector Trial Scheme and the Internship Programme. Members' support was also sought for the Administration's proposal of making enhancement to the Innovation and Technology Support Programme ("ITSP") under ITF by expanding the eligibility criteria of the programme to all self-financing degree-awarding institutions registered under the Post-Secondary

Colleges Ordinance (Cap. 320) by the next round of ITSP solicitation exercise in the second half of 2017 with a view to encouraging more research and development ("R&D") activities. Details of the above issues were set out in the Administration's paper (LC Paper No. CB(1)916/16-17(03)).

Discussion

Handling of project variations

6. Mr Charles Peter MOK remarked that the cumbersome procedures of ITF might have discouraged R&D institutions and companies undertaking projects funded under various programmes of ITF, including ITSP and ESS, from proposing changes, such as adoption of newly available technologies for saving cost, of approved projects during the project implementation stage. As such, Mr MOK urged the Administration to handle change requests of ITF funded projects with flexibility such that resources of ITF could be used more effectively.

7. CIT responded that change requests of approved projects would be considered as long as such proposed changes were reasonable and in line with the original scope and deliverables of the projects. Approval should be sought from the Innovation and Technology Commission ("ITC") for the change requests to ensure prudent use of public money.

Technology Voucher Programme

8. Mr Christopher CHEUNG Wah-fung noted with concern that only 353 applications for TVP were received since the launch of the programme in late November 2016 up to March 2017, and queried whether the procedures of TVP had discouraged SMEs from making applications. Mr CHEUNG requested the Administration to promote TVP to SMEs so as to encourage more SMEs to apply for TVP funding to improve productivity, or upgrade or transform their business process by using technological services and solution. He also enquired whether any promotion programmes targeted at SMEs in the financial services sector had been conducted.

9. Noting that about 50% of TVP applications received during the aforementioned period were unable to be processed because the applicants had not submitted all the supporting documents required, Mr Jeffrey LAM suggested that ITC should consider setting up a dedicated team of staff to provide support for SMEs in dealing with the application procedures.

10. Mr Charles Peter MOK remarked that the industry generally welcomed the introduction of TVP. He advised that to encourage more SMEs to apply for TVP funding, the Administration should simplify the application procedures and

expedite the approval process of TVP applications as far as possible.

11. CIT responded that ITC had been promoting TVP to SMEs through various chambers of commerce and trade associations to enhance their understanding of the funding programme and its application procedures. A hotline had also been set up to answer enquires. To assist applicants to submit the necessary supporting documents, enhancement had been made to the online application process. ITC had been closely monitoring the implementation of TVP and would simplify the application procedures where appropriate. CIT added that ITC would conduct a briefing session on TVP for the Hong Kong Securities Association on 22 May 2017, and would continue to organize similar sessions for the security industry on a need basis.

12. In response to Mr Christopher CHEUNG Wah-fung's enquiry, CIT said that of the 78 approved applications under TVP, four applications were submitted by enterprises from the financial services industry.

13. Mr Jeffrey LAM expressed support for the Administration's proposal of expanding the eligibility criteria of ITSP under ITF to all self-financing degree-awarding institutions registered under the Post-Secondary Colleges Ordinance (Cap. 320). In respect of TVP, Mr LAM suggested that the Administration should consider raising the cumulative funding ceiling for each eligible SMEs which was currently set at \$200,000, and relaxing the eligibility criteria of the funding programme to Hong Kong companies with business outside the territories given that more Hong Kong companies would collaborate with hi-tech enterprises on the Mainland in the light of the development of the Hong Kong-Shenzhen Innovation and Technology Park in the Lok Ma Chau Loop and the Guangdong-Hong Kong-Macao Greater Bay Area.

14. CIT replied that TVP provided a cumulative funding up to \$200,000 for each eligible SME on a 2:1 matching basis to carry out a maximum of three approved projects. Noting that the average amount of funds approved for each project was about \$138,000, the current funding ceiling of \$200,000 should be adequate to cover the costs of some commonly sought technological solutions, namely cloud-based analytics solutions and enterprise resource planning solutions, in TVP applications. ITC would keep in view the effectiveness of the funding programme and technological needs of SMEs when reviewing the cumulative funding ceiling in future. CIT also clarified that enterprises registered in Hong Kong under the Business Registration Ordinance (Cap. 310) with at least a year of substantive business operation in Hong Kong and fulfilled the Government's definition of SMEs were eligible to apply for TVP funding regardless of the cross-border nature of their business activities.

Enterprise Support Scheme

Admin 15. Mr CHAN Chun-ying noted the low approval rate of ESS applications at about 12.5% and enquired about the reasons behind. Expressing a similar concern, Dr CHIANG Lai-wan enquired about the high withdrawal rate of ESS applications, which accounted for about 33.7% of the total number of applications. Dr CHIANG requested the Administration to keep track of the performance of the ESS projects to facilitate assessment of the effectiveness of the scheme, and provide the Panel with the relevant information.

16. CIT said that some applications were withdrawn because they were outside the funding scope of ESS while quite a number of the applications were rejected on the ground that they did not comprise any R&D element. The Administration would make further effort to help applicants understand the overall objectives, assessment criteria, application procedures and requirements of ESS by enhancing the information content of the scheme detailed in ITC's website. She added that applicants, upon submission of all the required information and documents, would in the fastest cases be notified of the vetting results in around 2 months.

Internship Programme

17. Mr CHAN Chun-ying relayed the industry's views that since the current level of internship allowance was below market level by 30% to 50%, organizations and companies had encountered difficulty in retaining local graduates who were employed as interns under the Internship Programme to assist in their R&D projects based on such a salary level. Mr CHAN urged the Administration to consider enhancing the funding mechanism of the Internship Programme by introducing end-of-contract gratuity for interns to enhance the attractiveness of the funding programme.

18. CIT said that the internship allowance for graduates with a Bachelor's degree and those with a Master's or higher degree were \$14,000 and \$16,500 respectively. Each project could engage up to two interns at any one time for a maximum period of 24 months. The organizations or companies concerned could top up the salary of interns if they so wished. CIT added that the internship allowance for graduates would be reviewed from time to time having regard to the general inflation rate and market pay position. In this connection, Mr CHAN Chun-ying advised that the Administration should review the level of internship allowance at a more frequent interval to ensure that it would be on a par with market level. CIT took note of Mr CHAN's views.

Admin 19. The Chairman opined that talents were pivotal to the development of innovation and technology ("I&T") industry in Hong Kong. He advised that the Administration should put in place complementary measures to enrich the R&D

talent pool in Hong Kong and retain R&D talents in face of severe competition from the neighbouring region, and assess the effectiveness of relevant schemes under ITF. The Administration was requested to furnish the Panel with such information in its next report to be submitted to the Panel.

20. CIT took note of the Chairman's request and remarked that ITF was established to finance projects that contributed to I&T upgrading and development, which included the nurturing of I&T talents. For instance, since the launch of the Internship Programme in 2004, more than 2 500 interns were supported by the programme, and over 60% of interns who had completed their internship either continued their career or planned to pursue a career in I&T-related areas. She added that the supply and retention of R&D talents would be one of the work focuses of the newly established Committee on Innovation, Technology and Re-industrialization chaired by the Financial Secretary.

R&D Cash Rebate Scheme

21. Pointing out that the average amount of cash rebate granted for each recipient enterprise under CRS since its inception in April 2010 up to March 2017 was just about \$250,000, Ir Dr LO Wai-kwok was concerned that the R&D projects seeking funding support from CRS were mainly small-scale. CIT responded that the level of cash rebate was 10% when CRS was launched in 2010. To enhance the effectiveness of the Scheme and encourage the private sector to invest more in R&D, the level of cash rebate was raised to 30% in February 2012 and to 40% in February 2016. The private sector had responded positively to such enhancements. As the enhanced cash rebate level would provide a greater incentive for companies to apply for CRS, it was anticipated that the average amount of cash rebate granted under CRS for each approved project would increase gradually.

22. Pointing out that Hong Kong's Gross Domestic Expenditure on R&D as a percentage of the Gross Domestic Product was just above 0.7%, Ir Dr LO Wai-kwok urged the Administration to expeditiously put in place the tax deduction policy for I&T expenditure as announced in the 2017 Policy Address to provide the needed tax incentives to boost private sector's R&D investment and a regular mechanism for enterprises to report their R&D expenditure. Mr Charles Peter MOK enquired about the progress of the Administration's study on the above tax deduction policy. CIT said that the Administration had been studying the feasibility of introducing tax concessionary measures in relation to R&D expenditure incurred by enterprises.

Summing up

23. The Chairman concluded that the Panel agreed to the Administration's

proposal of making enhancement to ITSP under ITF by expanding the eligibility criteria of the programme to all self-financing degree-awarding institutions registered under the Post-Secondary Colleges Ordinance (Cap. 320) by the next round of ITSP solicitation exercise in the second half of 2017.

V. Progress on the updating of the copyright regime: Copyright exceptions for people with a print disability under the "Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled"

(LC Paper No. CB(1)916/16-17(05) -- Administration's paper on "Copyright Exceptions for People with a Print Disability under the "Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled"

LC Paper No. CB(1)916/16-17(06) -- Paper on copyright exceptions for people with a print disability prepared by the Legislative Council Secretariat (background brief)

LC Paper No. CB(1)946/16-17(01) -- Administration's paper on progress on the updating of the copyright regime: "Copyright Exceptions for Persons with a Print Disability under the Marrakesh Treaty and the Copyright Ordinance" (PowerPoint presentation material)
(Chinese version tabled at the meeting and subsequently issued on 16 May 2017, English version issued on 21 June 2017)

Presentation by the Administration

24. At the invitation of the Chairman, Deputy Secretary for Commerce and Economic Development (Commerce and Industry)2 ("DSCED(CI)2") briefed members on the following key points:

- (a) "The Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled" ("Marrakesh Treaty") required contracting parties to

introduce a standard set of limitations and exceptions in their copyright laws in order to permit reproduction, distribution and making available of copies of published works in formats designed to be accessible to persons with a print disability ("PPDs"), and to permit cross-border exchanges of these accessible format copies, for the benefit of PPDs without being regarded as infringing copyrights.

- (b) For Hong Kong, while the existing copyright exceptions introduced in 2007 to serve the needs of PPDs were largely comparable with the requirements under the Marrakesh Treaty, there were some areas which might need to be amended to align with the treaty requirements. The Administration launched a three-month consultation exercise and released a consultation paper on 9 May 2017 to gauge public views on the key issues involved.

Assistant Director of Intellectual Property (Copyright) then gave a power-point presentation on the details of the copyright exceptions for PPDs under the Marrakesh Treaty and the existing CO, and the consultation exercise. Details were set out in the papers provided by the Administration (LC Paper Nos. CB(1)916/16-17(05) and CB(1)946/16-17(01)).

Discussion

The scope of "beneficiary person"

25. Dr Fernando CHEUNG expressed support for the Administration to review the copyright exceptions for PPDs. Noting that under Article 3 of the Marrakesh Treaty, the meaning of a "beneficiary person" included, inter alia, a person who was unable, through physical disability, to hold or manipulate a book to the extent that would be normally acceptable for reading, Dr CHEUNG sought clarification on whether the scope of copyright exceptions for PPDs under the existing CO covered the above meaning of a "beneficiary person" under the Marrakesh Treaty.

26. DSCED(CI)2 advised that under section 40A of CO, a person with a "print disability" was defined to cover a person who suffered from "(a) blindness; (b) an impairment of his visual function which cannot be improved by the use of corrective lenses to a level that would normally be acceptable for reading without a special level or kind of light; (c) inability, through physical disability, to hold or manipulate a book; or (d) inability, through physical disability, to focus or move his eyes to the extent that would normally be acceptable for reading." Accordingly, the existing scope of "print disability" under section 40A of CO, including (c) and (d) above, was largely comparable with the scope of "beneficiary person" under the Marrakesh Treaty. Yet, since the definition of "beneficiary persons" under the Marrakesh Treaty further extended to persons with a perceptual

or reading disability, which might cover dyslexia, the Administration was seeking public views on whether the scope of the beneficiaries under CO should be expanded by including "persons with a perceptual or reading disability" to align with the Marrakesh Treaty.

Cross-border exchange of accessible copies

27. In response to Mr Jimmy NG's enquiry on imports of accessible format copies regarding the meaning of the specified body to take appropriate measures to satisfy itself that the accessible copies could not be obtained at a reasonable commercial price in the case of cross-border exchanges, DSCED(CI)2 advised that the existing print disability-related exceptions under CO already required a specified body to make reasonable enquiries of whether accessible copies could be purchased at reasonable price before it might make the accessible copies. The requirement sought to maintain a fair balance between copyright protection and use of copyright work. Similar conditions could be considered if cross-border exchanges of accessible copies were to be allowed in future.

28. Deputy Director of Intellectual Property added that the Marrakesh Treaty did not lay down specific requirements regarding imports or exports of accessible format copies made pursuant to the exceptions, except that for exports of accessible format copies, the exporting entity had to ensure that the accessible format copies would only be used by the beneficiaries in the importing contracting party. Different means were adopted by different jurisdictions in ascertaining that accessible format copies could not be obtained at a reasonable commercial price. For example, some might require that prior to exportation, the exporting entity had to conduct basic checks or to enquire that no accessible format copies could be purchased at a reasonable commercial price in the importing jurisdiction. In some other jurisdictions, prior to importation, the authorized entity had to confirm that accessible format copies of the works concerned could not be purchased at a reasonable commercial price in that jurisdiction.

Consultation

29. In response to the Chairman's enquiry on whether the Administration would engage publishers of copyright works in the consultation exercise, DSCED(CI)2 advised that the Administration had initially reached out to different stakeholders, including publisher associations and organizations providing services to PPDs to gauge their views. DSCED(CI)2 also confirmed that the areas set out in the consultation paper had covered all relevant provisions of the Marrakesh Treaty. At the Chairman's request, the Administration would provide the list of key stakeholders, including users' groups and copyright owners, which it would reach out to gauge their views during the three-month consultation exercise.

(Post-meeting note: The information provided by the Administration was circulated to members vide LC Paper No. CB(1)1212/16-17(01) issued on 27 June 2017.)

Legislative timetable

30. The Chairman and Dr Fernando CHEUNG urged the Administration to amend CO to bring the copyright exceptions for PPDs in line with the Marrakesh Treaty as soon as practicable, and enquired about the legislative timetable.

31. DSCED(CI)2 advised that the Administration would carefully consider comments to be received during the consultation exercise before making a policy decision on whether and how it should amend CO to align the copyright exceptions with the Marrakesh Treaty. Subject to the extent and complexity of the amendments required, the Administration aimed to put forward the relevant legislative proposals in about one year after a decision had been made on the way forward.

32. In response to the Chairman's enquiry, DSCED(CI)2 advised that China was a signatory of the Marrakesh Treaty but had yet to ratify the treaty. The Administration considered that it was the appropriate time to conduct a review of CO to ensure that the copyright exceptions could align with the latest international standards under the Marrakesh Treaty for the benefit of PPDs.

Summing up

33. The Chairman remarked that Panel members and members of the public were welcome to put forward their views on the review of copyright exceptions for PPDs via the Panel or to the Administration direct within the consultation period ending on 9 August 2017.

VI. Any other business

34. There being no other business, the meeting ended at 4:05 pm.