

**立法會**  
**Legislative Council**

LC Paper No. CB(1)266/18-19  
(These minutes have been seen by  
the Administration)

Ref : CB1/SS/15/17/1

**Subcommittee on  
Two Orders Made under Section 49(1A) of the  
Inland Revenue Ordinance and Gazetted on 14 September 2018**

**Minutes of the first meeting on  
Friday, 19 October 2018, at 8:30 am  
in Conference Room 2B of the Legislative Council Complex**

**Members present** : Hon Kenneth LEUNG (Chairman)  
Hon James TO Kun-sun  
Hon WONG Ting-kwong, GBS, JP  
Hon Charles Peter MOK, JP  
Hon Alvin YEUNG

**Public officers  
attending** : **Agenda item II**

Financial Services and the Treasury Bureau

Mr Andrew LAI, JP  
Deputy Secretary (Treasury)2

Mr Stephen LO  
Principal Assistant Secretary (Treasury)(R2)

Inland Revenue Department

Mr Brian CHIU, JP  
Deputy Commissioner (Technical)

Ms Janny WU  
Senior Assessor (Tax Treaty)<sup>3</sup>

Department of Justice

Miss Annet LAI  
Government Counsel

**Clerk in attendance :** Ms Doris LO  
Chief Council Secretary (1)<sup>2</sup>

**Staff in attendance :** Miss Evelyn LEE  
Assistant Legal Adviser 10

Mr Raymond CHOW  
Senior Council Secretary (1)<sup>6</sup>

Ms Christina SHIU  
Legislative Assistant (1)<sup>2</sup>

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Action

**I Election of Chairman**

Mr James TO, the member who had the highest precedence among those present at the meeting, presided over the election of the Chairman of the Subcommittee. He invited nominations for the chairmanship of the Subcommittee.

2. Mr Charles Peter MOK nominated Mr Kenneth LEUNG and the nomination was seconded by Mr James TO. Mr Kenneth LEUNG accepted the nomination. There being no other nomination, Mr Kenneth LEUNG was declared Chairman of the Subcommittee. Mr LEUNG then took over the chair. Members agreed that there was no need to elect a Deputy Chairman.

**II Meeting with the Administration**

(L.N. 155 of 2018

— Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (Republic of India) Order

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- L.N. 156 of 2018 — Inland Revenue (Double Taxation Relief with respect to Taxes on Income and Prevention of Tax Evasion and Avoidance) (Republic of Finland) Order
- File Ref: TsyB R2 183/800-1-1/29/0— Legislative Council Brief  
(C) and TsyB R2 183/800-1-1/37/0  
(C)
- LC Paper Nos. LS92/17-18 and— Legal Service Division Reports  
LS94/17-18
- LC Paper No. CB(1)43/18-19(01) — Paper on the two Orders made under section 49(1A) of the Inland Revenue Ordinance and gazetted on 14 September 2018 prepared by the Legislative Council Secretariat (Background brief)
- LC Paper No. CB(1)43/18-19(02) — Letter from Assistant Legal Adviser to the Administration dated 20 September 2018
- LC Paper No. CB(1)43/18-19(03) — Administration's response to Assistant Legal Adviser's letter dated 20 September 2018 [LC Paper No. CB(1)43/18-19(02)]

Discussion

3. The Subcommittee deliberated (index of proceedings attached at **Appendix**).

Follow-up actions to be taken by the Administration

4. The Administration was requested to provide supplementary information, as set out in the ensuing paragraph, in respect of the issues raised by members regarding the exchange of information ("EoI") arrangements under the Comprehensive Avoidance of Double Taxation Agreements ("CDTAs") signed by the Hong Kong Special Administrative Region ("HKSAR") and the Republic of India on 19 March 2018 ("India Agreement"), and by HKSAR and the Republic of Finland on 24 May 2018 ("Finland Agreement"), to be implemented respectively by L.N. 155 of 2018 and L.N. 156 of 2018 (collectively referred to as the "two Orders").

Action

*Use of exchanged information for non-tax related purposes*

5. Given that Article 26(2) of the India Agreement and Article 25(2) of the Finland Agreement respectively provided, among other things, that information received by a Contracting Party under the relevant EoI agreement might be used for other purposes ("non-tax related purposes") when such information might be used for such other purposes under the laws of the Contracting Parties and the competent authority (*which, in the case of HKSAR, is the Commissioner of Inland Revenue or his authorized representative*)<sup>1</sup> of the supplying Party authorized such uses, the Administration was requested to provide the following information:

- (a) whether HKSAR had made arrangements for mutual legal assistance with India and/or Finland under the Mutual Legal Assistance in Criminal Matters Ordinance (Cap. 525) ("MLA arrangements") respectively;
- (b) if the answer to (a) was in the affirmative, and if the tax information requested or received by India or Finland under the relevant agreement was or concerned a criminal matter covered by Cap. 525, how a request made by India and/or Finland to use such information for non-tax related purposes would be dealt with, in particular,
  - (i) whether legal advice would be sought from the Department of Justice in the circumstances;
  - (ii) whether the requesting state would be requested to seek such information under Cap. 525 if no such request had been made;
  - (iii) the guiding principles (including any legal consideration) in determining whether such information should be provided under the relevant agreements or in accordance with the relevant MLA arrangements under Cap. 525; and
  - (iv) if it was decided that such information would be provided under the relevant agreements, whether any protection which was similar to those provided under Cap. 525 would be available to the subject person concerned;
- (c) an explanation on the operational procedure for supplying tax information referred to in paragraph (b) above under the relevant MLA arrangements and Cap. 525; and

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<sup>1</sup> See Article 3(1)(c) of the India Agreement and Article 3(1)(d) of the Finland Agreement.

Action

- (d) in cases where the tax information requested under the relevant agreement was not covered by Cap. 525, an explanation on how such information would be provided to the requesting party in the light of the relevant agreements, the Inland Revenue (Disclosure of Information) Rules (Cap. 112BI) and the Departmental Interpretation and Practice Notes No. 47.

*(Post-meeting note: The English and Chinese versions of the supplementary information provided by the Administration were circulated to members vide LC Paper No. CB(1)99/18-19(02) on 26 October 2018 and 29 October 2018 respectively.)*

Invitation of views

6. Members agreed to invite written submissions from interested parties on the two Orders.

*(Post-meeting note: A notice on the website of the Legislative Council was posted and letters to the District Councils were issued on 19 October 2018 to invite written submissions on the two Orders. By the submission deadline on 25 October 2018, no written submission on the two Orders was received.)*

Legislative timetable

7. The Chairman said that the Subcommittee had completed the scrutiny of the provisions of the two Orders. The Subcommittee agreed that subject to any views members might have on the supplementary information provided by the Administration, the Chairman would decide whether a further meeting was necessary.

*(Post-meeting note: Members were notified vide LC Paper No. CB(1)119/18-19 issued on 30 October 2018 that a Subcommittee meeting was scheduled for Monday, 5 November 2018, from 4:30 pm to 6:30 pm.)*

8. The Subcommittee noted that the scrutiny period of the two Orders would expire at the Council meeting of 7 November 2018. To allow sufficient time for the Administration to prepare the supplementary information requested by members and the Subcommittee to study such information and report its deliberations to the House Committee, the Subcommittee agreed that the Chairman would move a motion at the Council meeting of 31 October 2018 to extend the scrutiny period to the Council meeting of 28 November 2018.

Action

Members noted that, upon extension of the scrutiny period, the deadline for giving notice of motion to amend the two Orders would be 21 November 2018. The Chairman would report the deliberations of the Subcommittee to the House Committee at its meeting on 16 November 2018.

*(Post-meeting note: At the Council meeting of 31 October 2018, the Council passed a motion to extend the scrutiny period of the two Orders to the Council meeting of 28 November 2018.)*

**III Any other business**

9. There being no other business, the meeting ended at 9:59 am.

Council Business Division 1  
Legislative Council Secretariat  
4 December 2018

**Proceedings of the first meeting of the  
Subcommittee on Two Orders Made under Section 49(1A) of the  
Inland Revenue Ordinance and Gazetted on 14 September 2018  
on Friday, 19 October 2018, at 8:30 am  
in Conference Room 2B of the Legislative Council Complex**

Time Marker	Speaker	Subject(s)	Action Required
<b>Agenda item I — Election of Chairman</b>			
000355-000500	Mr James TO Mr Charles Peter MOK Mr Kenneth LEUNG	Election of Chairman	
<b>Agenda item II — Meeting with the Administration</b>			
000501-001312	Chairman Administration	<p>Briefing by the Administration on the two Orders made under Section 49(1A) of the Inland Revenue Ordinance (Cap. 112) and gazetted on 14 September 2018 (L.N. 155 of 2018 and L.N. 156 of 2018) to implement the Comprehensive Avoidance of Double Taxation Agreements ("CDTAs") respectively signed by the Hong Kong Special Administrative Region ("HKSAR") and the Republic of India ("India Agreement"), and by HKSAR and the Republic of Finland ("Finland Agreement")</p> <p>[Legislative Council Brief (File Ref: TsyB R2 183/800-1-1/29/0 (C) and TsyB R2 183/800-1-1/37/0 (C))]</p>	
001313-002839	Chairman Assistant Legal Adviser 10 ("ALA10") Administration	<p>Briefing by ALA10 on her letter to the Administration dated 20 September 2018 raising enquiries on matters relating to the two Orders (LC Paper No. CB(1)43/18-19(02)), and briefing by the Administration on its response to ALA10's letter (LC Paper No. CB(1)43/18-19(03))</p> <p>On the enquiry of the Chairman, the Administration advised that it had taken around 10 years for HKSAR to conclude the negotiation with India on the India Agreement.</p> <p>ALA10 further enquired if the Inland Revenue Department ("IRD") would make reference to its practice of exchange of information ("EoI") set out in the Departmental Interpretation and Practice Notes ("DIPN") No. 47 in handling an EoI request under a relevant CDTA.</p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>The Administration elaborated that:</p> <ul style="list-style-type: none"> <li>(a) an EoI should be conducted for tax purposes in accordance with the provisions of a relevant CDTA. Upon receipt of an EoI request, IRD would examine whether the information requested was foreseeably relevant according to the provisions of the relevant CDTA and whether the request is made in compliance with the requirements set out in the Inland Revenue (Disclosure of Information) Rules (Cap. 112BI) ("Disclosure Rules");</li> <li>(b) if the receiving party of exchanged tax information under a relevant CDTA intended to use such information for non-tax related purposes, this should only be allowed where such use was allowed under the laws of both Contracting Parties and the competent authority of the supplying party authorized such use. In the cases of Hong Kong, tax information might only be used for limited non-tax related purposes (such as recovery of proceeds from drug trafficking, organized and serious crimes and terrorist acts) under the laws of Hong Kong;</li> <li>(c) pursuant to DIPN No. 47, on every occasion where the requesting party intended to use the exchanged tax information for such specified non-tax related purposes, the competent authorities of the requesting party had to seek prior authorization from IRD, which would then consult the relevant law enforcement agencies and the Department of Justice ("DoJ") in Hong Kong; and</li> <li>(d) in the course of the negotiation on the India Agreement, the Indian authority expressly requested for allowing the use of the exchanged information under CDTA for limited non-tax related purposes, which was not prevented by the Agreement on Mutual Legal Assistance ("MLA") in Criminal Matters signed between HKSAR and India.</li> </ul>	
002840-003634	Chairman Mr James TO Administration	Mr TO expressed serious concerns about and staunch opposition, unless the Administration could provide a satisfactory written response to address his concerns, against the use of the	



Time Marker	Speaker	Subject(s)	Action Required
		<p>exchanged information through CDTAs by the CDTA partners for non-tax related purposes without having resorted to the pre-existing regime under MLA. He opined that this would be tantamount to undermining the statutory protection for the subject persons concerned under the Mutual Legal Assistance in Criminal Matters Ordinance (Cap. 525).</p> <p>The Administration stressed that:</p> <ul style="list-style-type: none"> <li>(a) the use of exchanged information for non-tax related purposes had become an integral provision in the latest (2012) version of the EoI Article in the Model Tax Convention on Income and on Capital ("Model Tax Convention") promulgated by the Organization for Economic Co-operation and Development ("OECD");</li> <li>(b) DoJ and relevant law enforcement agencies would be consulted when a request made by India or Finland to use the exchanged information under the relevant CDTA for non-tax related purposes was received; and</li> <li>(c) Hong Kong had not received any requests for the use of the exchanged information under CDTAs for non-tax related purposes before.</li> </ul> <p>The Chairman enquired whether IRD had consulted/would consult DoJ when (a) drafting the provisions of CDTAs in respect of the use of exchanged tax information for non-tax related purposes before signing the respective agreements with India and Finland; and (b) on each occasion upon receipt of a request for using the exchanged information under the relevant CDTA for non-tax related purposes.</p> <p>Mr TO also sought clarification regarding whether the request for the use of the exchanged information under the relevant CDTA for non-tax related purposes would only be considered if it arose from a specific tax-related case from the outset.</p> <p>The Administration explained that:</p> <ul style="list-style-type: none"> <li>(a) the arrangement on the use of exchanged tax information for non-tax related purposes was an</li> </ul>	

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		<p>established arrangement and in line with the international practice. In fact similar arrangement was incorporated in the Model Tax Convention promulgated by OECD and the United Nations Model Double Taxation Convention as well as other agreements signed before;</p> <p>(b) information would only be supplied to the Contracting Party of a CDTA where Hong Kong was a party to it upon a specific and bona-fide request for tax-related purposes in accordance with the provisions of the relevant CDTA. In other words, it was a pre-requisite that EoI should first be conducted for tax purposes in accordance with the provisions of the relevant CDTA; and</p> <p>(c) in practice, if a request was received from the requesting party to use the exchanged information for non-tax related purposes (new use), IRD would consult the relevant law enforcement agencies and DoJ in Hong Kong whether it was appropriate to accede to the receiving party's request for the new use.</p>	
003635-004140	Chairman Mr James TO Administration	<p>Mr TO enquired whether IRD would, for the purpose of gate-keeping against possible pure tax avoidance, proactively look into claims of benefits by Hong Kong tax residents made to the Contracting Party under a relevant CDTA, or only act upon enquiries or requests of the Contracting Party concerned in respect of such claims.</p> <p>The Administration advised that:</p> <p>(a) Hong Kong adopted the approach of principal purpose test ("PPT") by including relevant provisions in the respective CDTAs to counter treaty shopping aimed at obtaining reliefs provided in the relevant CDTAs; and</p> <p>(b) as an illustration, an eligible Hong Kong resident might seek tax reduction or tax relief from the competent authority of India pursuant to the India Agreement, and in case of dispute, resort to litigation filed in an Indian court of law or the mutual agreement procedure under the relevant CDTAs for dispute resolution.</p>	

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		<p>On the further enquiry of the Chairman, the Administration said that IRD would, in response to a relevant request from the Contracting Party, issue a Certificate of Resident Status of Hong Kong as a proof of the resident status of a Hong Kong tax resident.</p>	
004141-005448	<p>Chairman Mr WONG Ting-kwong Mr James TO Administration</p>	<p>Mr WONG Ting-kwong enquired:</p> <ul style="list-style-type: none"> <li>(a) in the handling of EoI requests from the CDTA partners, whether and how IRD would strive to safeguard the interests of taxpayers of Hong Kong who were the subject of the disclosure requests; and</li> <li>(b) in the light of the pre-existing regime to request information for specified non-tax related purpose (such as MLA), whether it was more appropriate to resort to the pre-existing regime upon receipt of a request for such use, instead of opening up another pathway under CDTAs.</li> </ul> <p>The Administration responded that:</p> <ul style="list-style-type: none"> <li>(a) Hong Kong had all along taken a prudent approach towards the exchange of information under CDTAs. Information would be exchanged only upon requests and the information sought should be foreseeably relevant to the application of the provisions of the relevant CDTAs or the administration and enforcement of domestic tax laws of the Contracting Parties;</li> <li>(b) the CDTA partners should provide relevant particulars, such as the purpose of the disclosure request and the tax type concerned, etc. in each of their EoI requests;</li> <li>(c) in handling an approved EoI request, IRD would give prior notification to the subject person before sending out the information to the requesting party, and the person would have the right to review the information and request amendments if the information was factually incorrect. This notification and review mechanism, which was not commonly found in other jurisdictions, had worked well in the past</li> </ul>	

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		<p>and offered additional and comprehensive protection to the taxpayers in Hong Kong; and</p> <p>(d) IRD would exercise due diligence to prevent any abuse of the use of exchanged information under CDTAs for non-tax related purposes, including rejecting any such requests if DoJ raised objection to the disclosure.</p> <p>Mr TO remained very concerned about the use of exchanged information under CDTAs for non-tax related purposes without resorting to the pre-existing regime. He sought confirmation in writing on whether HKSAR had made arrangements for MLA with India and/or Finland under Cap. 525 ("MLA arrangements") respectively, and if the answer was in the affirmative, and if the tax information requested or received by India or Finland under the relevant agreement was or concerned a criminal matter covered by Cap. 525, how a request made by India or Finland to use such information for non-tax related purposes would be dealt with, in particular:</p> <p>(a) whether legal advice would be sought from DoJ in the circumstances;</p> <p>(b) whether the requesting state would be requested to seek such information under Cap. 525 if no such request had been made;</p> <p>(c) the guiding principles (including any legal consideration) in determining whether such information should be provided under the relevant agreements or in accordance with the relevant MLA arrangements under Cap. 525; and</p> <p>(d) if it was decided that such information would be provided under the relevant agreements, whether any protection which was similar to those provided under Cap. 525 would be available to the subject person concerned.</p> <p>The Administration undertook to provide a written response to the above issues, and assured members that the competent authorities of the CDTA partners might only use the exchanged tax information under the relevant CDTAs for limited non-tax related</p>	<p>Administration (paragraph 5(a) and (b) of the minutes refers)</p>

Time Marker	Speaker	Subject(s)	Action Required
		<p>purposes defined under the laws of Hong Kong if they also had similar laws permitting the use of tax information for the same purposes.</p>	
005449-005910	<p>Chairman Mr James TO Mr WONG Ting-kwong Administration</p>	<p>Mr James TO enquired about the reference basis for the inclusion of Article 18 (Artistes and Sportspersons) under the India Agreement.</p> <p>Mr TO and Mr WONG Ting-kwong also asked about the implementation details of the taxation arrangements under Article 18(3). Mr WONG sought clarification regarding whether the subsidies by public funds received by the entertainers or sportspersons for the activities performed would be excluded from the assessable income derived from such activities.</p> <p>The Administration explained that:</p> <p>(a) Article 18 in the India Agreement was modeled on the relevant provision in the Model Tax Convention promulgated by OECD, which aimed at promoting cultural exchange; and</p> <p>(b) pursuant to Article 18(3), literally, if an activity performed in a Contracting Party by entertainers or sportspersons was substantially supported by public funds of one or both of the Contracting Parties or of political subdivisions or local authorities thereof, the income derived from the activity performed should be taxable only in the Contracting Party of which the entertainer or sportsman was a resident, but not in the other Contracting Party.</p>	
005911-010812	<p>Chairman ALA10 Administration</p>	<p>ALA10 enquired, in furtherance to the letter to the Administration (LC Paper No. <a href="#">CB(1)43/18-19(02)</a>) and to the concern raised by a member at the meeting, about:</p> <p>(a) given that under paragraph 5(b) of the Protocol to the India Agreement, the competent authority of India might disclose information to Parliamentary Committees, the Special Investigation Team constituted by Government, and any other oversight bodies mutually agreed upon in writing (collectively known as "specified bodies"), whether IRD knew if such specified bodies were similarly required to abide</p>	

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		<p>by the personal data protection and confidentiality principles in respect of the information disclosed to them under such disclosure arrangements;</p> <p>(b) it was understood from the Administration's reply (LC Paper No. <a href="#">CB(1)43/18-19(03)</a>) that the India Agreement and Finland Agreement adopted different drafting approaches in providing for PPT in these agreements, whether the Administration confirmed that, despite the said difference, the relevant articles in the said agreements were intended to and did have the same operative effect; and</p> <p>(c) (i) in case where the tax information requested or received by India or Finland under the relevant agreement was or concerned a criminal matter covered by Cap. 525, the operation procedure for supplying such tax information under the relevant MLA arrangements and Cap. 525; and (ii) in case where the tax information requested under the relevant agreement was not covered by Cap. 525, how such information would be provided to the requesting party in the light of the relevant agreements, the Disclosure Rules and DIPN No. 47.</p> <p>The Administration responded that:</p> <p>(a) there were situations where the tax treaty partners were required by their respective domestic laws to disclose the exchanged information to the oversight bodies of the tax authorities concerned. In the case of India, IRD had ensured that the specified bodies under paragraph 5(b) of the Protocol to the India Agreement were subject to the same safeguards that met the international standards in respect of the protection of taxpayers' privacy and confidentiality of the exchanged information; and</p> <p>(b) the Administration also clarified that, notwithstanding the difference in the drafting approach of the PPT clause adopted by the India and Finland Agreement, the relevant articles in both agreements indeed served to provide for</p>	<p>Administration (paragraph 5(c) and (d) of the minutes refers)</p>

Time Marker	Speaker	Subject(s)	Action Required
		the prevention of fiscal evasion and had no substantive difference in the operative effect.	
010813-010908	Chairman Mr WONG Ting-kwong	The Subcommittee agreed to invite written submissions from interested parties on the two Orders.	
Examination of the provisions of the Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (Republic of India) Order (L.N. 155 of 2018)			
010909-012130	Chairman Administration	<p><u>Sections 1 – 3</u></p> <p>No enquiry from members on these sections</p> <p><u>Part 1 of the Schedule</u></p> <p><i>Articles 1 – 4</i></p> <p>No enquiry from members on these articles</p> <p><i>Article 5</i></p> <p>Given that the definition of "permanent establishment" in Article 5 was not yet updated following the updating of the relevant definition in the latest (2012) version of the EoI Article in the Model Tax Convention of OECD, the Chairman asked whether OECD had required the Contracting Parties of a CDTA to spontaneously update the said definition subsequent to the relevant update in the Model Tax Convention.</p> <p>The Administration responded that updating of the relevant definition was not mandatory. While Hong Kong had planned to give effect to the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting ("Multilateral Instrument") in Hong Kong soon, the Multilateral Instrument would not deal with the definition of "permanent establishment" in Hong Kong's pre-existing CDTAs, and any update should be mutually agreed with the relevant Contracting Parties.</p> <p><i>Articles 6 – 11</i></p> <p>No enquiry from members on these articles</p> <p><i>Articles 12 – 13</i></p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>The Chairman enquired about:</p> <p>(a) the reference(s) made in defining "fees for technical services" under Article 13; and</p> <p>(b) the differences between the tax treatment for "royalties" under Article 12 and "fees for technical services" under Article 13.</p> <p>The Administration responded that:</p> <p>(a) Article 13 on "fees for technical services" had been included at the request of India, which was a core member of an OECD expert group which had drafted proposal for an article on fees for technical services; and</p> <p>(b) in respect of tax treatment, both "royalties" and "fees for technical services" had a cap on withholding tax rates of 10% of the gross amount of the royalties/fees for technical services in accordance with the India Agreement.</p> <p><i>Articles 14 – 30</i></p> <p>No enquiry from members on these articles</p> <p><u>Part 2 of the Schedule</u></p> <p>No enquiry from members on this part</p>	
Examination of the provisions of the Inland Revenue (Double Taxation Relief with respect to Taxes on Income and Prevention of Tax Evasion and Avoidance) (Republic of Finland) Order (L.N. 156 of 2018)			
012131-012835	Chairman Administration	<p><u>Sections 1 – 3</u></p> <p>No enquiry from members on these sections</p> <p><u>Part 1 of the Schedule</u></p> <p>On the Chairman's enquiry, the Administration advised that it had taken around 8 years for HKSAR to conclude the negotiation with Finland on the Finland Agreement.</p> <p><i>Articles 1 – 3</i></p> <p>No enquiry from members on these articles</p>	



Time Marker	Speaker	Subject(s)	Action Required
		<p><i>Article 4</i></p> <p>Given that under Article 4(1) it was provided that "resident of a Contracting Party" meant, in the case of HKSAR and amongst other criteria, any individual who stayed in HKSAR for more than 180 days during a year of assessment, the Chairman enquired whether internationally the criterion of staying for more than 180 days (i.e. 180-day rule) or more than 183 days (i.e. 183-day rule) during a year of assessment was adopted for defining "resident" for tax assessment purposes.</p> <p>The Administration responded that Hong Kong had generally adopted the 180-day rule for defining "resident" for tax assessment purposes, whereas the 183-day rule was adopted internationally recently, especially for the employment provision.</p> <p><i>Article 5</i></p> <p>No enquiry from members on this article</p> <p><i>Article 6</i></p> <p>The Chairman sought clarification regarding whether Article 6(4) referred to the circumstance where, say, a Hong Kong resident was deriving income from the direct use, letting or use in any other form of the right to the enjoyment of immovable property held by a Finland company in which the Hong Kong resident had shares or other corporate rights that entitled him to such enjoyment.</p> <p>The Administration clarified that the said provision mainly applied to a unique and specific type of company in Finland that was owned by a legal person and the ownership of the shares or other corporate rights of which would entitle the owner of such shares and corporate rights to the enjoyment of immovable property held by that company.</p> <p><i>Articles 7 – 29</i></p> <p>No enquiry from members on these articles</p> <p><u>Part 2 of the Schedule</u></p> <p>No enquiry from members on this part</p>	

<b>Time Marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action Required</b>
012836-012900	Chairman Administration	<p>The Chairman enquired whether India and Finland had completed the relevant local legislative procedures required for implementing the respective CDTAs.</p> <p>The Administration responded that India had notified IRD that it had completed the relevant legislative procedures, whereas no such notification had been received from Finland yet.</p>	
012901-013251	Chairman Mr WONG Ting-kwong	Legislative timetable and meeting arrangement	
<b>Agenda item III — Any other business</b>			
013252-013301	Chairman	Concluding remarks	