

立法會
Legislative Council

LC Paper No. CB(1)1343/17-18
(These minutes have been seen
by the Administration)

Ref : CB1/PL/CI

Panel on Commerce and Industry

Minutes of meeting
held on Tuesday, 19 June 2018, 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, GBS, JP
Hon Mrs Regina IP LAU Suk-yee, GBS, JP
Hon YIU Si-wing, BBS
Hon MA Fung-kwok, SBS, 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 CHU Hoi-dick
Hon Jimmy NG Wing-ka, JP
Hon CHAN Chun-ying
Hon Tanya CHAN

Member absent : Hon LAU Kwok-fan, MH

Members attending : Hon Tommy CHEUNG Yu-yan, GBS, JP
Hon POON Siu-ping, BBS, MH
Hon LUK Chung-hung
Hon AU Nok-hin

**Public officers
attending**

: Agenda item IV

Dr LAW Chi-kwong, GBS, JP
Secretary for Labour and Welfare

Mr Carlson CHAN, JP
Commissioner for Labour

Ms Melody LUK, JP
Assistant Commissioner (Labour Relations)

Mr Desmond HOU
Principal Economist
Financial Secretary's Office

Mr Eddie CHEUNG, JP
Deputy Secretary for Financial Services &
the Treasury (Financial Services)
Financial Services and the Treasury Bureau

Agenda Item V

Innovation and Technology Bureau

Ms Annie CHOI, JP
Commissioner for Innovation and Technology

Mr Ivan K B LEE, JP
Deputy Commissioner for Innovation and
Technology

Mrs Millie NG, JP
Deputy Secretary for Innovation and Technology

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

Agenda item VI

Commerce and Economic Development Bureau

Dr Bernard CHAN, JP
Under Secretary for Commerce and Economic
Development

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

Miss Alice CHOI
Principal Assistant Secretary for Commerce and
Economic Development (Commerce and
Industry)³

Intellectual Property Department

Mr Thomas TSANG
Assistant Director of Intellectual Property
(Patents and Designs)

Mr Frederick KWOK
Solicitor (Patents & Designs)²

Agenda item VII

Commerce and Economic Development Bureau

Dr Bernard CHAN, JP
Under Secretary for Commerce and Economic
Development

Miss Connie CHEUNG
Principal Executive Officer (Administration)
Commerce, Industry and Tourism Branch

Innovation and Technology Bureau

Dr David W K CHUNG, JP
Under Secretary for Innovation and Technology

Ms Annie CHOI, JP
Commissioner for Innovation and Technology

Mr Ivan K B LEE, JP
Deputy Commissioner for Innovation and
Technology

**Attendance by
invitation** : Agenda item IV

Ms Gabriella YEE
Executive Director (Policy)
Mandatory Provident Fund Schemes Authority

Agenda Item V

Mr Hugh CHOW
Chief Executive Officer
Hong Kong Applied Science and Technology
Research Institute

Mr Daniel YU
Chief Executive Officer
Nano and Advanced Materials Institute

Mr Simon WONG
Chief Executive Officer
Logistics and Supply Chain MultiTech R&D
Centre

Ms Yan CHAN
Director (Business Development)
Hong Kong Research Institute of Textiles and
Apparel

Dr Lawrence CHEUNG
Director (Technology Development)
The Hong Kong Productivity Council

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

Staff in attendance : Mr Joey LO
Senior Council Secretary (1)8

Mr Terence LAM
Council Secretary (1)3

Ms May LEUNG
Legislative Assistant (1)3

Miss Zoe YIP
Clerical Assistant (1)3

Action

I. Confirmation of minutes of meetings

(LC Paper No. CB(1)1098/17-18 -- Minutes of meeting held on 20 March 2018

LC Paper No. CB(1)1100/17-18 -- Minutes of meeting held on 10 April 2018)

The minutes of meetings held on 20 March and 10 April 2018 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 2018 and United Nations Sanctions (Yemen) Regulation 2015 (Amendment) Regulation 2018)

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)1097/17-18(01) -- List of outstanding items for discussion

LC Paper No. CB(1)1097/17-18(02) -- List of follow-up actions)

3. Members noted that the next regular Panel meeting would be held on 17 July 2018 at 2:30 pm to discuss the following item proposed by the Administration –

Latest development of the Hong Kong Science Park and industrial estates, and the Administration's measures to support re-industrialization

4. The Chairman said that deputations and individuals would be invited to make written submissions and oral representations on the above at the meeting. He said that he would liaise with the Administration on other items to be discussed at the next meeting, and inform members of the meeting arrangements as soon as possible.

IV. Preliminary idea on abolishing the "offsetting" arrangement under the Mandatory Provident Fund System and the possible impact of the abolition on various industries

(LC Paper No. CB(1)1097/17-18(03) -- Administration's paper on "Preliminary idea on abolishing the "offsetting" arrangement under the Mandatory Provident Fund System")

Presentation by the Administration

5. At the invitation of the Chairman, Secretary for Labour and Welfare ("SLW") highlighted the salient features of the Administration's preliminary idea on abolishing the "offsetting" arrangement under the Mandatory Provident Fund ("MPF") System. He pointed out that the preliminary idea was not the final decision and the Administration had been exchanging views with major stakeholders including the business and labour sectors in the past few months with a view to developing a more concrete proposal for taking the matter forward. Of the views collected so far, the business sector was mainly concerned about how the support to micro-sized enterprises could be further enhanced and whether the Administration would further extend the 12-year period of sharing the employers' expenses on severance payment ("SP")/long service payment ("LSP"). As for the labour sector, they were largely receptive to the preliminary idea but were concerned that in certain extreme circumstances, individual employees might receive a smaller amount of aggregate benefits (SP/LSP entitlement together with the accrued benefits of the employers' contribution to their MPF accounts) than what they would otherwise receive under the current "offsetting" regime. SLW said that the Administration would see how best these concerns could be addressed.

Discussion

Two-tier subsidy

6. Mr CHAN Chun-ying said that he remained open to the Administration's preliminary idea on abolishing the "offsetting" arrangement under the MPF System

at this stage, and enquired about the basis of the Administration's estimate that its proposed financial commitment of \$17.2 billion (comprising \$14.7 billion under the first-tier subsidy and \$2.5 billion under the second-tier subsidy, in 2016 prices) would be sufficient to share the incident employers' (i.e. employers who had initiated dismissals necessitating SP/LSP expenses) on a reimbursement basis. Mr CHAN was also keen to be briefed on the interplay between the maximum mandatory contribution level for MPF (now pitched at \$1,500), which was anticipated to rise over time, and the current estimate of the Administration based on the above proposed financial commitment. In addition, he sought clarification on the Administration's projected rate of investment return to support its assumption that accrued benefits derived from employers' MPF contributions before the "Effective Date" (on which the abolition of the "offsetting" arrangement came into operation) would grow due to investment returns and might outgrow the "offsettable" SP/LSP before the effective date.

7. SLW advised that the proposed two-tier subsidy with duration extended to 12 years and the quantum increased to \$17.2 billion to help share employers' expenses on SP/LSP after the abolition of the MPF "offsetting" arrangement represented a remarkable increase in the Administration's financial commitment from the previous-term Government's proposed commitment of \$7.9 billion for 10 years. Extending the first-tier subsidy for one or two years would involve disproportionate increase in the amount of financial commitment. Some employers suggested to slightly reduce the first-tier subsidy while enhancing the second-tier subsidy to strengthen the support for micro-sized enterprises. The Administration would explore the feasibility of enhancing the second-tier subsidy which would not involve much moral hazard as the second-tier subsidy would only kick in when employers' saving in their designated saving accounts ("DSAs") were not sufficient to clear the outstanding SP/LSP after netting the first-tier subsidy, and thus would be more focused in helping the micro-sized enterprises. SLW added that the current estimates were based on the figures collected in 2016 or earlier, and had not factored in the possible increase in the maximum relevant income level for MPF contribution over time. Nevertheless, such a factor was not expected to have a major bearing on the abolition of the "offsetting" arrangement under the MPF System. Currently, the accrued benefits derived from employers' MPF contributions were insufficient to cover SP/LSP and many employers had to make top-up payment to clear their SP/LSP liability. In the longer term, there was a high probability that the accrued benefits derived from employers' MPF contributions before the Effective Date would gradually outgrow the "offsettable" SP/LSP before the Effective Date which would be frozen at that point in time.

8. Mr Jeffrey LAM considered that the operation of the two-tier subsidy arrangement and the formula for calculating the Administration's subsidy to employers to share part of their SP/LSP expenditure were too complicated for micro-, small- and medium-sized enterprises ("MSMEs") and even large enterprises

to comprehend. He urged that the Administration should, apart from exchanging views with employees, continue to gauge views of the employers on the Administration's preliminary idea and come up with a finalized proposal that would be acceptable to both sides.

9. SLW advised that the Administration fully understood the concerns of the business sector over the abolition of the "offsetting" arrangement. While the impact of the abolition on most of the medium- and large-sized enterprises would likely be manageable, the Administration would continue to explore ways to strengthen the support to micro-sized enterprises. The Administration was exchanging views with major stakeholders and would take into account their views in refining the preliminary idea to make it more acceptable to both the business and labour sectors.

10. Mr YIU Si-wing said that with the advance in technology and change in consumption/sales pattern, many industries, including the tourism industry were facing manpower scale back or even under the threat of massive redundancy in future. Mr YIU was of the view that since the Administration's proposal to extend the duration of the Administration's subsidy from 10 to 12 years was still insufficient for the incident employers, he urged the Administration to provide more details on the operation of the two-tier subsidy mechanism, and consider: (a) further extending the two-tier subsidy period beyond 12 years; and (b) whether the Administration would act as the ultimate guarantor under the worst-case scenario.

11. SLW said that the Administration would take into account the views, including those on extending the subsidy period and increasing the quantum of the subsidy, where appropriate, in refining the preliminary idea.

12. Mr AU Nok-hin suggested that instead of providing an across-the-board subsidy to all enterprises regardless of whether they had genuine need, the Administration should consider adopting a more focused approach in providing subsidies on a sliding scale to those enterprises which were affected most by the proposal to abolish the "offsetting" arrangement. In addition, he considered that the Administration should not take into consideration a latest proposal by certain sectors, i.e. the Government was requested to permanently subsidize half of employers' expenses on SP/LSP, and then the other half to be financed by employers. He considered the proposal inconsistent with the reasonable use of public funds.

13. SLW advised that the primary purpose of abolishing the "offsetting" arrangement was to enhance the retirement protection of employees. However, in contemplating such a proposed change in policy, a balance had to be struck between the interest of employees and those of employers so that the abolition would not trigger large-scale business closure and hence massive layoffs, which would jeopardize the employment of the employees. SLW clarified that the proposed Administration's financial commitment was not an "injection" to a fund but a

commitment of the Administration to share with the incident employers their SP/LSP expenses at the proposed scale.

"Offsetting" severance payment/long service payment for employment period before Effective Date

14. Mr LUK Chung-hung was pleased to note that the employers' and employees' representatives of the Labour Advisory Board ("LAB") had recently reached a preliminary consensus on the "offsetting" arrangement. He also welcomed the Administration's proposal to revert to two-thirds (from 1/2 as proposed by the previous-term Government) of the monthly wage of the employee for each year of service for calculating SP/LSP and keep the maximum SP/LSP at \$390,000. Mr LUK suggested that employers should not be allowed to offset the pre-Effective Date SP/LSP of employees with long years of service with their MPF contributions made after the Effective Date.

15. SLW advised that if employers were not allowed to offset the pre-Effective Date SP/LSP with their MPF contributions made after the Effective Date, it would necessitate the creation of 3 million MPF accounts operationally. This would increase the total costs of managing the MPF accounts, which would in the end be borne by the employees. The proposed arrangement would provide incentives for employers to retain those employees with long years of service and prevent massive redundancies.

Possible impact of the abolition of the "offsetting" arrangement

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16. Noting that the Administration had not provided the Panel in the discussion paper with much information on the possible impact of the abolition of the "offsetting" arrangement on various industries, Mr Jimmy NG and Mr Jeffrey LAM requested the Administration to provide supplementary information regarding the potential impact of abolishing the "offsetting" arrangement under the MPF System on various sectors, including small- and medium-sized enterprises.

17. SLW advised that micro-enterprises apart, certain sectors such as security service providers or cleaning contractors would be more prone to high staff turnover due to the failure to renew their service contracts. As such, the crux of the issue seemed to lie in how best to help enterprises with insufficient savings in their DSAs to clear their SP/LSP liabilities rather than focusing on the size or the sector of the enterprises affected by the abolition of the "offsetting" arrangement. To this end, enhancing the second-tier subsidy might be more useful.

18. Principal Economist, Financial Secretary's Office added that enterprises with a high incidence rate of triggering SP/LSP but lower profit margin would be more affected by the proposed abolition. A business impact assessment on abolishing

MPF "offsetting" arrangement was provided to the Subcommittee on Retirement Protection in April 2017 (LC Paper No. CB(2)1345/16-17(01)). He stressed that there would be certain limitations on gauging the potential sectoral impact of abolishing the "offsetting" arrangement based on information collected between 2014 and 2016, when the number of offsetting claims was conceivably smaller amid the largely stable macroeconomic environment and relatively tight labour market.

19. Mr CHUNG Kwok-pan considered that the representatives from five employer organizations at LAB who claimed that they had reached an initial consensus with the employee representatives did not represent the majority of the employers/business community on the issue of abolition. The business community's stance on the issue remained opposed to the abolition, as evident from the recent newspaper advertisement published jointly by 144 associations of MSMEs stating their opposition to the proposed abolition. He said that according to the Administration, the abolition of the "offsetting" arrangement would lead to a 5.6% increase in staff cost. In order to cover this 5.6% increase, employers had to save up an equal percentage of the employees' monthly income in DSA (rather than the 1% as proposed by the Administration) which would collectively amount to \$33.6 billion a year. As such, employers would have to bear \$403.2 billion over the next 12 years. Based on the Administration's estimate that 44% of micro-sized incident employers would not have adequate funds in their DSAs to meet the SP/LSP payment in Year 20 after the abolition, 123 000 enterprises would be affected. The proposed subsidy by the Government of \$17.2 billion was only a drop in the bucket. Mr CHUNG held the view that the responsibility of providing retirement protection for employees should be shared by the Government. The business sector considered that the abolition of "offsetting" arrangement had breached the consensus reached between the Administration and the business sector upon enacting the MPF legislation.

20. SLW advised that the 5.6% increase in staff cost referred to by Mr CHUNG was only a contingent liability for an unlikely scenario involving a massive layoff of all staff with all of them entitled to SP/LSP. In actual experience, only a certain proportion of the staff would be entitled to SP/LSP upon termination of employment.

21. Mr WONG Ting-kwong declared that he was a former non-executive director of the Mandatory Provident Fund Schemes Authority ("MPFA") and the current Chairperson of the Mandatory Provident Fund Schemes Advisory Committee under MPFA. He queried whether the employers' contribution of 1% of the employees' monthly relevant income to their own DSAs (in addition to the 5% mandatory contribution under the Mandatory Provident Fund Schemes Ordinance (Cap. 485)) would be sufficient to cover the employers' shortfall in the event of massive redundancy or business failure.

22. SLW advised that the 5% mandatory contribution was credited to the employees' MPF account and could only be used for "offsetting" SP/LSP of the employees concerned upon termination of employment, whereas the 1% contribution to DSA was the employer's own money which would be sufficient to cover SP/LSP under normal circumstances (for example, a 10% retrenchment in manpower). A shortfall would only happen when the cut involved over 20% of staff and many of those had served the enterprise concerned for a long time. The proposed ceiling for contribution to DSA was set at 15% of the annual relevant income of all employees of an employer as it was estimated to cover generally the amount of contingent SP/LSP liability of an average enterprise, although the contingent liability of enterprises with a lower staff turnover rate would tend to be higher.

23. Mr WONG Ting-kwong said that the Democratic Alliance for the Betterment and Progress of Hong Kong was in support of improving employees' rights and benefits. The abolition of the "offsetting" arrangement would be an inevitable step forward in this regard. However, as the abolition was a major policy change affecting MSMEs, employers of MSMEs were gravely concerned about the availability of sufficient money for discharging their full SP/LSP liabilities after exhausting their savings accrued in their DSAs. Hence, the Administration should endeavor to refine the proposal to mitigate the impact of the abolition on enterprises, in particular micro-sized establishments. Mr WONG then expressed his personal stance on the subject. He was opposed to the abolition of the "offsetting" arrangement which would create an unbearable burden on MSMEs, and was concerned that the provision of Government subsidy to employers to share part of their SP/LSP expenses would only last for 12 years. After Year 12, MSMEs would have to cover on their own whatever shortfalls they might face.

Admin 24. SLW advised that the abolition of the "offsetting" arrangement would have no retrospective effect and the employers would be allowed to offset the pre-Effective Date SP/LSP with their MPF contributions made both before and after the Effective Date. As for the post-Effective Date SP/LSP, it was estimated that 79% of incident employers would have adequate funds in their DSAs to meet SP/LSP payable in Year 20 after the abolition. Employers who envisaged themselves having higher SP/LSP liabilities may consider making additional contribution to their own DSAs above the proposed 1% of their employees' monthly relevant income and the 15% proposed cap. At the request of the Chairman, SLW agreed to provide information on the assumptions adopted by the Administration to come up with various crude estimations regarding the key elements of the preliminary idea on abolishing the "offsetting" arrangement, including the estimated proportion that 79% of incident employers would have adequate funds in their DSAs to meet SP/LSP payable in Year 20 after the abolition of the "offsetting" arrangement.

25. Noting that there was not much statutory employment benefits for those

employees with less than two years of service, the Chairman was concerned that the proposed abolition might aggravate the problem by triggering off even more redundancy of employees as their service with an employer approached the end of second year. He enquired about the Administration's corresponding measures to prevent such problem from happening.

26. SLW advised that in view of the reports on Government service contractors trying to evade payment of SP to their employees with at least two years of service upon expiry of the service contracts, an inter-bureau and inter-departmental working group had been set up to look into possible ways to strengthen the protection of the non-skilled workers employed by Government service contractors. The Administration envisaged that the improvement in the protection for non-skilled workers employed by Government service contractors would have a stabilizing effect on the labour market.

Legislative timetable

27. Mr LUK Chung-hung enquired about the legislative timetable and when the Administration would come up with a finalized proposal on the way forward.

28. SLW advised that the Administration aimed to finalize the abolition proposal within 2018, introduce the enabling legislation into the Legislative Council ("LegCo") by end of 2019, and complete the legislative process before end of the Sixth LegCo in mid-2020. Taking account of the lead time required for effecting changes in relevant operating systems, the abolition of the "offsetting" arrangement could only be implemented in 2022 at the earliest.

29. Mr POON Siu-ping declared that he was a non-executive director of MPFA. He urged the Administration to come up with a new proposal which could balance the interests of both employees and employers. In this regard, he enquired about the time required for the Administration to come up with a new proposal for discussion at a LAB meeting. He also enquired about the maximum quantum which the Administration would be prepared to subsidize.

30. SLW advised that the Administration aimed to provide a finalized proposal before end of 2018. The Administration's target of completing the relevant legislative process by mid-2020 was an optimistic one given the amount of work and the complexities of the legislative amendments involved.

Summing up

31. The Chairman urged the Administration to taking into account members' views and come up with a finalized proposal as soon as possible with more detailed explanations on the calculation methods and assumptions employed.

V. Progress Report on Research and Development Centres in 2017-2018

(LC Paper No. CB(1)1097/17-18(04) -- Administration's paper on "Progress Report on Research & Development Centres for 2017-18"

LC Paper No. CB(1)1097/17-18(05) -- Paper on the Research and Development Centres prepared by the Legislative Council Secretariat (updated background brief)

LC Paper No. CB(1)972/17-18(01) -- Summary of the major views and questions expressed by members of the Panel on Commerce and Industry in respect of the operation and performance of the five research and development ("R&D") Centres during the discussions on the work of the R&D Centres in the past three years (i.e. from 2015 to 2017) prepared by the Legislative Council Secretariat

LC Paper No. CB(1)1097/17-18(06) -- Administration's response to the major views and questions expressed by members of the Panel on Commerce and Industry on the work of the R&D Centres as set out in LC Paper No. CB(1)972/17-18(01))

Presentation by the Administration

32. At the invitation of the Chairman, Commissioner for Innovation and Technology ("CIT") briefed members on an annual update on the 2017-2018 operation of the five Research & Development ("R&D") Centres under the purview of the Innovation and Technology Commission ("ITC"), followed by a video presentation on the subject. Details were set out in the Administration's paper (LC Paper No. CB(1)1097/17-18(04)).

Discussion*Commercialization of research and development results*

33. Noting that as at end-March 2018, 130 projects of the R&D Centres were funded under the Public Sector Trial Scheme ("PSTS"), with more than 180 public organizations (including government departments) participating in the trials of new products or services, Mr MA Fung-kwok enquired about the number and examples of R&D deliverables under PSTS which were eventually commercialized and launched in the market.

34. CIT advised that those 130 projects of the R&D Centres funded under PSTS involved multifarious technologies and products. One example was the Single E-lock Scheme implemented by the Logistics and Supply Chain MultiTech R&D Centre in collaboration with the Hong Kong Customs and Excise Department, which reduced customs clearance time through the seamless clearance service provided by Internet of Things and e-lock-based technology. The Scheme had been adopted in over 30 control points in the Pearl River Delta region and had extensively facilitated the transshipment traffic to the Guangdong Province. Another example of successful commercialization was the adoption by a large textiles company of an industrial system developed by the Hong Kong Research Institute of Textiles and Apparel that recycled old clothes into new yarn. Harnessing the technology, a yarn production line was planned to be set up by the company. Moreover, the Automotive Parts and Accessory Systems R&D Centre ("APAS") had developed technologies for charging of electric vehicles for the public sector and industry associations.

35. The Chairman was concerned that certain outstanding R&D deliverables were not put to extensive use in the market as they should be. The nano-modified cementitious waterproof coating developed by the Nano and Advanced Materials Institute ("NAMI"), for example, had only been applied at various sites with an area of over 7 000 square metres after its commercialization and adoption by the industry. He urged the Administration to foster collaboration between NAMI and the established local cement manufacturers to enable wider application of the technology. He also enquired if the new production lines brought about by the R&D deliverables were retained in Hong Kong, and the income arising from relevant intellectual property ("IP") rights.

36. CIT advised that the Administration had all along endeavored to retain the production lines in Hong Kong where the industry would be better protected in terms of IP rights, and would continue to encourage the enterprises concerned to set up their production lines in Hong Kong as far as possible. The Administration would also collaborate with the Construction Innovation and Technology Application Centre under the Construction Industry Council to promote the use of

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the nano-modified cementitious waterproof coating technology to the industry. Regardless of whether the production line was based in Hong Kong, the income arising from the IP rights would be based on the sales volume. At the Chairman's request, CIT agreed to provide information on the annual commercialization income of R&D results of the five R&D Centres in the past three years, with a breakdown by income from local and non-local enterprises.

37. Chief Executive Officer, NAMI added that many sponsors of NAMI would choose Hong Kong as the first priority in setting up their production lines. The original sponsor of the nano-modified cementitious waterproof coating project was a small and medium enterprise. NAMI was preparing to introduce the technology to major Hong Kong property developers and construction companies. On the other hand, Director (Technology Development), The Hong Kong Productivity Council advised that APAS developed a 12-metre plug-in hybrid electric coach in early 2018. The prototype coach was designed and assembled in Hong Kong. The sponsor of the project hoped that upon commercialization, the coach would be assembled and maintained locally to provide better after-sales support than that of imported electric coaches. Subject to obtaining the necessary licences, it was envisaged that the commercialization process would take six to nine months, and that the coach would be launched in the market by late 2018 or early 2019.

Collaboration with the industry

38. While expressing support for the development of the R&D Centres, Dr CHIANG Lai-wan was concerned about the progress of commercialization of R&D results. She called on the R&D Centres to put more effort in promoting project technologies to businesses, and facilitate the application of R&D deliverables in the private sector. She also suggested that the Administration should consider setting up additional R&D Centres focusing on new types of technologies.

39. CIT advised that the Administration attached great importance to the development of R&D Centres and commercialization of R&D results. As such, noting the suggestions made by members at the discussion of the additional allocation to the R&D Centres in December 2015, the Administration had set new performance indicators to assess the R&D Centres' performance in conducting R&D in collaboration with the industry. From 2017-2018 onwards, the Administration raised the target level of industry income from 20% to 30%. The level of industry income of all five R&D Centres was able to reach 30% or above in 2017-2018. In many cases, the Administration was encouraged to note that the industry concerned had leveraged the technologies transferred from the R&D Centres to invest in new production lines or machinery.

40. Mr YIU Si-wing suggested that the Administration could consider introducing an award system to recognize the outstanding R&D achievements of project staff or teams. He urged the Administration to provide more opportunities for exchanges between the five R&D Centres and their counterparts in the Mainland and overseas countries, and enquired about the R&D deliverables arising from such exchanges conducted during the past few years.

Admin 41. CIT advised that the performance of the R&D teams would be reflected in their appraisals and performance-based remuneration. The five R&D Centres participated actively in international conferences and seminars to learn from and share experience with their Mainland and overseas counterparts. For example, Hong Kong Applied Science and Technology Research Institute, hosting one of the Hong Kong Branches of Chinese National Engineering Research Centres, worked closely with Mainland and overseas universities/enterprises on collaborative projects. At Mr YIU's request, CIT undertook to provide information on the R&D projects of the five R&D Centres with participation of enterprises/institutions from overseas or the Mainland in the past three years, with examples on the relevant R&D outcomes.

42. Mr Charles Peter MOK considered that collaboration with the industry was very important to the development of the R&D Centres. He was given to understand that there had been some disputes arising from industry collaborative projects, and enquired if the Administration was aware of the problems and would consider engaging arbitrators to resolve such problems.

43. CIT advised that disputes arising from industry collaboration were few and far between. Nonetheless, upon request, ITC would examine the case, liaise with relevant parties, and take necessary follow-up actions in an impartial manner. Similar to other commercial contracts, the research partners could consider arbitration to resolve their disputes.

Support for the Research and Development Centres

44. Mr CHUNG Kwok-pan recognized the achievements of the R&D Centres. Noting that the enhanced tax deduction regime for qualifying R&D expenditure would soon be implemented with the passage of the Inland Revenue (Amendment) (No. 3) Bill 2018 in LegCo, Mr CHUNG envisaged that there would be an increasing number of collaborative projects between the industry and R&D Centres. As such, he enquired whether the Administration would provide additional manpower and resources for the R&D Centres to cope with the anticipated increase in workload, and whether the funding of \$10 billion to the Hong Kong Science and Technology Parks Corporation ("HKSTPC") would benefit the five R&D Centres.

45. CIT advised that ITC would, together with the Chief Executive Officers of the R&D Centres, assess the future manpower and resource requirements of the R&D Centres. The Administration last sought funding for the R&D Centres from LegCo in late 2015 for the period from 2017 to 2021, and would plan to seek further funding for the next four-year period from LegCo in late 2019. CIT added that although the funding of \$10 billion for HKSTPC might not have direct bearing on the R&D Centres, the R&D Centres would benefit from the research-related facilities to be made available using the funding.

46. Noting that the Administration was now discussing the operation details of a Mainland-Hong Kong Joint Funding Scheme with the Ministry of Science and Technology to encourage cooperation between R&D institutions in both places, Mr MA Fung-kwok enquired about the latest progress of and timetable for the implementation of the Scheme. CIT advised that relevant discussion on the operation details of the Scheme was still underway, which would be an expansion of the existing Guangdong-Hong Kong Technology Cooperation Funding Scheme to a nation-wide scale.

Summing up

47. The Chairman recapped members' suggestions that the Administration should provide more updated information in the next report on the commercialization of new types of R&D deliverables from the five R&D Centres, and the R&D Centres' effort in promoting the further application of such deliverables on a wider scale.

VI. Proposed amendments to Patents (General) Rules (Cap. 514C)

(LC Paper No. CB(1)1097/17-18(07) -- Administration's paper on "Proposed Amendments to the Patents (General) Rules for Implementing the New Patent System"

LC Paper No. CB(1)1097/17-18(08) -- Paper on progress of implementation of the patents reform prepared by the Legislative Council Secretariat (updated background brief))

Presentation by the Administration

48. At the invitation of the Chairman, Under Secretary for Commerce and Economic Development ("USCED") and Assistant Director of Intellectual Property (Patents and Designs) ("ADIP(P&D)") briefed members on the proposed amendments to the Patents (General) Rules (Cap. 514C) ("PGR"), which sought to specify the detailed procedures for the effective operation of an original grant patent ("OGP") system and a refined short-term patent ("STP") system (collectively referred to as "the new patent system"). Details were set out in the Administration's paper (LC Paper No. CB(1)1097/17-18(07)).

Discussion*Fee structure and level*

49. Mr YIU Si-wing considered that for the new patent system to become operational and competitive, it would require a set of effective and efficient procedures to be introduced to enable timely processing of applications for and grants of patents, and to keep the fee structure and level as competitive as possible for promoting the use of the new patent system. With this in mind, he enquired whether the proposed fee level was competitive and comparable to other patent offices outside Hong Kong.

50. USCED advised that the Administration had studied the current fees chargeable by several major patent offices outside Hong Kong (including European Patent Office and the respective patent offices in Australia, Mainland of China, Singapore and the United Kingdom as stated in the Administration's Paper), and considered that the proposed modifications to existing fee items and the proposed new fee items for chargeable services under the new patent system were in general competitive among these places. Besides, the Intellectual Property Department ("IPD") had consulted the major local professional/representative bodies of patent practitioners on the legislative amendments to PGR including the fees proposal, and they were generally supportive of the proposals concerned.

51. Mr YIU Si-wing further sought details of the proposed modifications to existing fee items and the proposed new fee items for chargeable services under the new patent system to be put forward in the legislative amendments to PGR.

52. USCED advised that the proposed modifications to fees of existing chargeable services mainly sought to introduce preferential fees for electronic filing of patent applications as well as 3-tier progressive annual renewal rates for standard patents, whereas the proposed new fee items sought to cover new chargeable services to be rolled out under the new patent system.

53. For the proposed new fee items, ADIP(P&D) added that in order to pave way for the introduction of the new patent system and to provide the corresponding new services by IPD, it was necessary to amend PGR to, among others, specify the fees for the relevant chargeable services to be provided by IPD under the new patent system. The major new chargeable services and the corresponding fees under the new patent system included: (a) the fees for filing OGP applications; (b) fees for requesting substantive examination of an OGP application and an STP; and (c) the official fee for making a request to review the provisional refusal by the Registrar of Patents ("the Registrar") of an OGP application or provisional revocation of an STP upon substantive examination.

54. Mr YIU Si-wing referred to the Administration's proposal of introducing preferential fees for electronic filing of patent applications by a fee reduction of about 28% as compared to the current flat rates applied to both paper-filings and electronic filings of patent applications, and enquired the rationale behind such proposal. As for the existing fee of \$380 for paper-filing of a standard patent application, Mr YIU asked whether the fee was set at a level covering the Administration's cost in providing the services or it had been frozen at such a level for a long time. If it was the latter, he enquired how long would the fee be kept at that level.

55. USCED advised that the proposed preferential fees for electronic filing of patent applications sought to encourage and promote filing of patent applications through electronic means, which was more cost-effective. As regards the proposed 3-tier progressive annual renewal rates for standard patents, the proposed change was in line with the prevailing international practice concerning patent renewal, and aimed to reduce the cost of patent renewal during the early period of patented inventions while discouraging unnecessary prolongation of the protection term of those patented inventions with little/diminishing market or commercial exploitation value.

The need to nurture a strong patent profession

56. The Chairman considered it important to set up the Patent Prosecution Highway ("PPH") with other patent offices outside Hong Kong to expedite the examination procedures of patent applications. He enquired the progress on setting up PPH with other patent offices and the development of human capital of the patent industry. Noting that Hong Kong would rely heavily on the assistance by the State Intellectual Property Office of the Mainland ("SIPO") given that IPD entered into a cooperation arrangement with SIPO in 2013 under which SIPO agreed to provide technical assistance and support to IPD in conducting substantive examination of patent applications and manpower training under the

new patent system, the Chairman enquired about the Administration's plan in the next 5 to 10 years on the grooming of local patent talents in conducting substantive examination of patent applications and supporting the operation of the new patent system.

57. USCED concurred with the Chairman's view that local patent talents were important for Hong Kong to conduct substantial examination in the long run. The Administration would liaise with SIPO (which accepted bilingual patent applications and had topped among the worldwide patent authorities on the number of filings of patent applications since 2011) on the manpower training for IPD under the new patent system. For PPH, USCED advised that it was essential for a patent authority to build up its international credibility in patent examination to facilitate its discussion with other patent authorities for pursuing such arrangements. Accordingly, the Administration would continue to work in full swing to prepare for the implementation of the new patent system as soon as possible, and would make its best to build up the track-record and reputation of Hong Kong's patent authority.

58. ADIP(P&D) added that the Administration would explore with SIPO on the possibility of setting up PPH or arrangements of similar effects. Separately, the Administration had recruited additional patent examiners who had relevant science and technology qualifications and experience in handling patent applications. Three Senior Intellectual Property Examiners and two Intellectual Property Examiners I of IPD, who had been deployed to assist in the implementation of the new patent system, were receiving / would receive training by SIPO on the substantial examination of OGP applications and STPs for taking up such duties under the new patent system. The development of human capital for the patent industry in Hong Kong would very much depend on the number of OGP applications received and the technical areas involved in such applications. IPD would keep in view of its establishment to ensure there was sufficient manpower for handling patent applications and examination of different disciplines under the new patent system.

Legislative amendments by way of negative vetting

59. The Chairman noted that the proposed legislative amendments to PGR would be submitted to LegCo for negative vetting in the fourth quarter of 2018. In view of the complexity of the proposed consequential or technical amendments to PGR as stated in Annex B to the Administration's paper and the tight timeframe for the negative vetting procedures, the Chairman was of the view that the Administration should consider providing more details of the relevant legislative proposals before submitting the relevant subsidiary legislation to LegCo for examination.

60. Deputy Secretary for Commerce and Economic Development (Commerce and Industry)2 ("DS(C&I)2") advised that the Administration's present paper sought to set out all four major areas of the proposed legislative amendments to PGR. For the first three areas, they were set out in detail with examples in the main text of the Administration's paper, whereas the amendments relating to the fourth area were listed in Annex B to the paper (given their consequential or technical nature) for easy reference by the Panel. DS(C&I)2 added that the Patents (Amendment) Ordinance 2016, which was enacted in June 2016, had provided for the essential legal framework for the new patent system. While the PGR would need to be amended to lay down the detailed procedures for the operation of the new patent system and other consequential or technical amendments, such amendments would have to be made under the overall legal framework and in accordance with the enabling provisions under the Patents (Amendment) Ordinance 2016. The arrangement for amendments to PGR to be made by the Registrar, subject to negative vetting by LegCo, was set out in the law.

61. Ir Dr LO Wai-kwok said that during the scrutiny of the Patents (Amendment) Bill 2015 by the Bills Committee to which he was also a member, the deputations, which attended the relevant Bills Committee meeting, were generally in support of the introduction of the new patent system. It was also the majority view that the operational and implementation details should be finalized as soon as possible for early commencement of the new patent system so as to foster the development of the patent industry as well as the development of the innovation and technology ("I&T") in Hong Kong. Ir Dr LO considered that it was usual practice to have the detailed procedures specified through subsidiary legislation after the legal framework had been established in the relevant ordinances and that any subsidiary legislation so made would not deviate from the provisions of the legal framework set out in the main ordinances.

Summing up

62. The Chairman concluded that the Panel supported in principle the Administration's proposal to amend PGR for the effective operation of the new patent system.

VII. Suggestions of the report on the Panel's duty visit to Israel

(LC Paper No. CB(1)492/17-18

-- Report on the Panel's duty visit to Israel for the House Committee meeting on 19 January 2018

- LC Paper No. CB(1)620/17-18(01) -- Reply from the Commerce and Economic Development Bureau in response to the suggestions made under paragraph 4.2.1 (j) and (k) of the report on the Panel's duty visit to Israel (LC Paper No. CB(1)492/17-18)
- LC Paper No. CB(1)891/17-18(01) -- Reply from the Innovation and Technology Bureau in response to the suggestions made under paragraph 4.2 (except paragraph 4.2.1(j) and (k)) of the report on the Panel's duty visit to Israel (LC Paper No. CB(1)492/17-18))

63. The Chairman informed members that the Commerce and Economic Development Bureau and the Innovation and Technology Bureau had respectively submitted their written responses to the suggestions by the delegation of the Panel in the report on the overseas duty visit to Israel, which was conducted from 22 to 28 July 2017 to study the country's experience in promoting the development of I&T industry and re-industrialization. Details of the Administration's written responses were set out in the Administration's papers (LC Paper Nos. CB(1)620/17-18(01) and CB(1)891/17-18(01)).

Discussion

Performance indicators for overseas Economic and Trade Offices

64. The Chairman mentioned that during the visit to Israel, the delegation learnt that the Foreign Trade Administration ("FTA") of Israel had under its management 45 overseas Economic and Trade Missions ("ETMs") responsible for promoting Israel's exports. To complement the objective of transforming the ETMs from a "cost-centre" to a "profits centre" to ensure that they could generate substantive economic benefits for Israel's economy, FTA had adopted a set of stringent performance indicators in assessing the performance of ETMs. In this regard, the delegation suggested that the Administration should draw reference from the Israeli Export Request Management System and key performance indicators ("KPIs") assessments used by FTA to monitor the performance of ETMs, and formulate a set of standardized KPIs tailored to overseas Economic and Trade Offices ("ETOs"), which were also tasked with the function of trade and investment promotion, so as to enhance the work effectiveness of the overseas ETOs. In the Chairman's view, the overseas ETOs should, apart from undertaking government-to-government ("G2G") work, strengthen their role on

the front of trade and investment promotion.

65. USCED advised that one of the major objectives of the overseas ETOs was to represent the Government of the Hong Kong Special Administrative Region ("HKSAR") in fostering bilateral ties between Hong Kong and its major trading partners, such as promoting economic, trade and cultural ties, etc. at the G2G level. The overseas ETOs were also responsible for trade and investment promotion in collaboration with Invest Hong Kong ("InvestHK"). USCED added that the Administration had already adopted a set of indicators on three major areas of work (i.e. commercial relations, public relations and investment promotion) to evaluate the performance of ETOs, which were similar to those of the Israeli ETMs.

66. USCED also advised that the overseas ETOs served as a platform to enhance the bilateral trade relations between Hong Kong and the countries under their respective purviews. Whether or not the business deals with the companies in these countries would be successful was a matter to be decided by the market. USCED cautioned that should a quantitative KPI in terms of the amounts of investment achieved akin to the one for ETMs be adopted as one of the performance indicators of ETOs, individual ETOs might unavoidably have to pay more attention to potential business deals concerning larger companies or involving more investment, and this would not be in the interest of the small and medium enterprises. USCED said that the Administration would regularly monitor the changes in the global business environment in adjusting its strategies and work priorities. In selecting the locations for setting up the five new ETOs in India, Russia, South Korea, Thailand and the United Arab Emirates respectively, the Administration had taken into account the economic development potentials of the countries concerned, their trade relations with Hong Kong as well as the expected economic benefits including inward investment that could be brought to Hong Kong. That illustrated the Administration's sustained efforts in strengthening the role and function of the overseas ETOs in trade and investment promotion.

67. The Chairman pointed out that of the 174 staff under the establishment of ETOs for the year 2018-2019, the respective number of personnel responsible for the work in relation to commercial relations, public relations and investment promotion were 80, 68 and 26 respectively. The Administration had allocated a significant portion of the resources to the overseas ETOs to promote trade relations at the G2G level. Comparing the staff establishment of ETOs and InvestHK in the 2018-2019 estimates at 174 and 37 respectively, the Chairman considered that the manpower resources allocated to InvestHK, which was tasked to promote inward investment, was disproportionate vis-à-vis that of ETOs. He advised that the Administration should make suitable deployment of the resources allocated to ETOs in light of the changing economic landscape of the countries

under their respective purviews, and consider providing more resources for InvestHK to support its trade and investment promotion work.

68. In respect of promoting the development of I&T industry, the Chairman enquired whether attracting multinational companies to set up R&D centres in Hong Kong and to promote inward investment in key technological areas which Hong Kong strived to develop would be one of the work targets of the overseas ETOs in the upcoming five to 10 years. He was keen to ensure that work of the overseas ETOs would complement the Government's policy initiatives.

69. USCED responded that the Administration had always kept in view regional economic development and reviewed the staffing arrangement of the overseas ETOs on a regular basis. He also assured members that ETOs had all along aligned their work with the policy initiatives and priorities of the Government. The Administration undertook to place more emphasis on trade and investment promotion work in the proposal of setting up the five new ETOs for consultation with the Panel, and consider enhancing the manpower provision of these ETOs in investment promotion as appropriate.

Review of the division of work among overseas Economic and Trade Offices, and the overseas offices of the Hong Kong Trade and Development Council and Invest Hong Kong

70. The Chairman relayed the delegation's observation that while the overseas offices of InvestHK and Hong Kong Trade Development Council ("HKTDC") and ETOs were tasked with similar responsibility of trade and investment promotion, they operated independently of each other. The delegation had then suggested that the Administration should review the division of work among the three offices, so that their work and functions could be better coordinated to enhance cost-effectiveness of the relevant promotion efforts and achieve synergy in the promotion of Hong Kong's economic development.

71. USCED advised that the overseas ETOs and the overseas offices of HKTDC and InvestHK represented the HKSAR Government in promoting Hong Kong in different aspects. Being the official representatives of the HKSAR Government abroad, the overseas ETOs were responsible for fostering ties and handling bilateral matters between Hong Kong and the trading partners under their respective purviews. InvestHK was tasked to attract and retain foreign direct investment, as well as to actively promote Hong Kong as the preferred destination for investment, while HKTDC was a statutory body which focused on promoting trade in goods and services, mainly at the business-to-business level. Notwithstanding having different roles, the three collaborated closely in a range of activities and promotional events to showcase the strengths of Hong Kong and to

attract new business partners and visitors to Hong Kong. With concerted efforts, they achieved synergy in promoting Hong Kong's position as an international financial and business hub. The Administration considered that the current institutional set-up was effective in implementing the HKSAR Government's trade and investment promotion work overseas.

Other issues

72. Mr YIU Si-wing suggested that officials from relevant Government policy bureaux should be invited to join future LegCo Members' overseas duty visits, in particular those visits to study areas which were highly technical, to enhance the Administration's understanding on the relevant developments in the concerned countries, thereby facilitating further discussions between LegCo Members and the Administration on whether and how to apply in Hong Kong the experience of other countries. Mr YIU also suggested the Administration to make further reference to the suggestions made in the delegation's report, say with the assistance of the relevant ETOs, to identify how far Hong Kong had lagged behind Israel and other countries in various aspects, and to make suggestions for improvement. Mr YIU considered that the Administration should be more proactive in acquiring useful experiences of other countries in some specific areas that were relevant to the development of industries in Hong Kong.

73. USCED responded that one of the core functions of ETOs was to gather information on political and economic developments, including the development trend of industries, in countries under their respective purviews and provide relevant analysis for the Administration's consideration. The Administration would stand ready to learn from the useful experience of other countries. For instance, subsequent to the signing of the Free Trade Agreement between Hong Kong and the Association of Southeast Asian Nations ("ASEAN"), the Administration had proactively initiated more communication with the ASEAN member states at the G2G level. The industry representatives were also engaged to participate in trade missions led by senior government officials to emerging markets in ASEAN with a view to exploring new business opportunities for Hong Kong.

Summing up

74. The Chairman called on the Administration to take into consideration the delegation's suggestions, and to re-visit the role, functions and work targets of the overseas ETOs in a holistic manner from a long-term perspective to ensure that work of the overseas ETOs would complement the Government's policy initiatives and that ETOs could generate substantive economic benefits for Hong Kong's economy.

VIII. Any other business

75. There being no other business, the meeting ended at 5:45 pm.

Council Business Division 1
Legislative Council Secretariat
23 August 2018