

## **For Information**

### **Legislative Council Panel on Commerce, Industry, Innovation and Technology**

#### **Proposed Amendments to the Schedules to the Patents Ordinance (Cap. 514), Registered Designs Ordinance (Cap. 522), Trade Marks Ordinance (Cap. 559) and Layout-design (Topography) of Integrated Circuits (Designation of Qualifying Countries, Territories or Areas) Regulation (Cap. 445B)**

## **Introduction**

This paper seeks to brief Members on the Government's proposed technical amendments to the respective Schedules to the Patents Ordinance (Cap. 514) ("PO"), the Registered Designs Ordinance (Cap. 522) ("RDO"), the Trade Marks Ordinance (Cap. 559) ("TMO") and the Layout-design (Topography) of Integrated Circuits (Designation of Qualifying Countries, Territories or Areas) Regulation (Cap. 445B) ("Integrated Circuits Regulation"). The proposed amendments seek to update these Schedules which set out the list of contracting parties to the Paris Convention for the Protection of Industrial Property ("Paris Convention") and/or the membership list of the World Trade Organization ("WTO").

## **Background**

2. The People's Republic of China ("China") is a contracting party to the Paris Convention. The Central People's Government ("CPG") applied the Paris Convention to the Hong Kong Special Administrative Region ("HKSAR") with effect from 1 July 1997. Besides, the HKSAR (in the name of Hong Kong, China) is a separate member of the WTO.

3. According to the requirement under Article 4 of the Paris Convention, Hong Kong, China is obliged to grant a person who has filed an application for a patent or for registration of a design or trade mark in a contracting party to the Paris Convention a right of priority in respect of a subsequent application filed in Hong Kong, China within a specified period. Besides, Article 2.1 in Part I of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights ("TRIPS Agreement") obliges Hong Kong, China to comply with Article 4 of the Paris Convention that Hong Kong, China shall grant a person who has filed an application for a patent or

for registration of a design or trade mark in a WTO member country, territory or area the same right of priority in respect of a subsequent application filed in Hong Kong, China within a specified period.

4. In addition, Article 35 in Part II of the TRIPS Agreement requires Hong Kong, China to grant other WTO members the same level of intellectual property (“IP”) protection for layout-designs (topographies) of integrated circuits as that granted to the residents of Hong Kong, China.

5. To meet the above requirements concerning the right of priority for patents, designs and trade marks, we have made specific provisions accordingly in the PO, the RDO and the TMO to the effect that a person who has filed an application in a contracting party to the Paris Convention or a WTO member country, territory or area will enjoy a right of priority. We have also set out in a schedule to each of the above-mentioned ordinances the lists of contracting parties to the Paris Convention and WTO member countries, territories or areas. In this regard, the Chief Executive in Council (“CE-in-C”) is empowered to amend the relevant schedule to the PO by order published in the Gazette. In the case of the RDO and the TMO, CE-in-C may amend the relevant schedules by regulation.

6. As for the international obligations concerning layout-designs (topographies) of integrated circuits, we have provided in the Layout-design (Topography) of Integrated Circuits Ordinance (Cap. 445) that the relevant IP protection will be given to qualifying countries, territories or areas designated by regulation by the Chief Executive. The Integrated Circuits Regulation, with a schedule setting out those countries, territories or areas that have acceded to the WTO, has been made for this purpose.

### **Proposed Amendments to the Schedules**

7. We undertake exercises to update the above-mentioned schedules from time to time to reflect the latest lists of contracting parties to the Paris Convention and WTO membership. The last update was implemented by order and regulations tabled at the Legislative Council (“LegCo”) for negative vetting on 8 February 2017.

8. Subsequent to the last update of the lists, the Islamic Republic of Afghanistan, the Republic of Kiribati, the Republic of Cabo Verde and the Republic of Fiji have acceded to the Paris Convention as contracting parties, while Union of the Comoros and Democratic Republic of Timor-Leste have become new members of the WTO. To reflect the above changes, we need to amend the respective schedules to the PO, the RDO, the TMO and the

Integrated Circuits Regulation. Besides, we will also take this opportunity to amend the official Chinese/English names of 18 contracting parties to the Paris Convention and/or WTO members, with reference to information from the United Nations Terminology Database as well as the relevant websites of the Ministry of Foreign Affairs of China. A summary of all the above proposed amendments is set out in Annex.

9. As the Paris Convention was applied to the HKSAR by the CPG, we have sought its prior agreement via the Office of the Commissioner of the Ministry of Foreign Affairs of the People's Republic of China in the HKSAR before proposing the amendments to the list of contracting parties to the Paris Convention in the relevant schedules to the PO, the RDO and the TMO.

### **Legislative Timetable**

10. We are now drafting the necessary amendment Order and Regulations and plan to table these pieces of subsidiary legislation at the LegCo for negative vetting in December 2024.

### **Advice Sought**

11. Members are invited to note the contents of this paper.

**Commerce and Economic Development Bureau**  
**October 2024**

## **Annex**

### **Summary of Proposed Amendments**

#### **1. Regarding the contracting parties which have newly acceded to the Paris Convention**

	<b>Name of the New Contracting Party to the Paris Convention</b>	<b>Proposed Amendment</b>
(a)	The Islamic Republic of Afghanistan (阿富汗伊斯蘭共和國)	To add the new contracting parties as stated in the left column to the respective schedules to the PO, the RDO and the TMO.
(b)	The Republic of Kiribati (基里巴斯共和國)	
(c)	The Republic of Cabo Verde (佛得角共和國)	
(d)	The Republic of Fiji (斐濟共和國)	

#### **2. Regarding the member countries, territories or areas which have newly acceded to the WTO**

	<b>Name of the New WTO Member</b>	<b>Proposed Amendment</b>
(a)	Union of the Comoros (科摩羅聯盟)	To add the new member as stated in the left column to the respective schedules to the TMO and the Integrated Circuits Regulation*.
(b)	Democratic Republic of Timor-Leste (東帝汶民主共和國)	To add the new member as stated in the left column to the respective schedules to the PO, the RDO, the TMO and the Integrated Circuits Regulation.

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\* Given that Union of the Comoros itself is already a contracting party to the Paris Convention, and the schedules to the PO and the RDO only set out “Countries which have acceded to the Paris Convention” and “Countries, territories or areas which have acceded to the WTO Agreement (not including countries which have acceded to the Paris Convention)”, there is no need to amend the PO and the RDO.

**3. Regarding the proposed amendments to the official Chinese/English names of 18 contracting parties to the Paris Convention and/or WTO members in the respective schedules to the PO, the RDO, the TMO and the Integrated Circuits Regulation**

	<b>Official Name of Contracting Party to the Paris Convention and/or WTO Member to be Amended</b>	<b>Official Name as Amended</b>
(a)	Brunei Darussalam (文萊達魯薩蘭國)	Negara Brunei Darussalam (文萊達魯薩蘭國)
(b)	The Democratic Republic of Congo (剛果民主共和國)	The Democratic Republic of the Congo (剛果民主共和國)
(c)	The Republic of Congo (剛果共和國)	The Republic of the Congo (剛果共和國)
(d)	The Republic of Cote d'Ivoire (科特迪瓦共和國)	The Republic of Côte d'Ivoire (科特迪瓦共和國)
(e)	The Kingdom of Swaziland (斯威士蘭王國)	The Kingdom of Eswatini (斯威士蘭王國)
(f)	The Republic of Guyana (圭亞那共和國)	The Cooperative Republic of Guyana (圭亞那合作共和國)
(g)	The Republic of Iceland (冰島共和國)	Iceland (冰島)
(h)	The Republic of Indonesia (印度尼西亞共和國)	Republic of Indonesia (印度尼西亞共和國)
(i)	The Republic of Lebanon (黎巴嫩共和國)	The Lebanese Republic (黎巴嫩共和國)
(j)	Libya (利比亞)	State of Libya (利比亞國)
(k)	The Federal Democratic Republic of Nepal (尼泊爾聯邦民主共和國)	Nepal (尼泊爾)
(l)	The Republic of Macedonia (馬其頓共和國)	The Republic of North Macedonia (北馬其頓共和國)

	<b>Official Name of Contracting Party to the Paris Convention and/or WTO Member to be Amended</b>	<b>Official Name as Amended</b>
(m)	The Kingdom of Saudi Arabia (沙特阿拉伯王國)	Kingdom of Saudi Arabia (沙特阿拉伯王國)
(n)	The Kingdom of Sweden (瑞典王國)	Sweden (瑞典)
(o)	The Syrian Arab Republic (阿拉伯敘利亞共和國)	The Syrian Arab Republic (阿拉伯敘利亞共和國)
(p)	The Republic of Turkey (土耳其共和國)	Republic of Türkiye (土耳其共和國)
(q)	The Bolivarian Republic of Venezuela (委內瑞拉玻利瓦爾共和國)	Bolivarian Republic of Venezuela (委內瑞拉玻利瓦爾共和國)
(r)	The Republic of Yemen (也門共和國)	Republic of Yemen (也門共和國)