

# 假如議會從來沒有出現過會怎樣？ What if the TIC had never existed?

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(編按：二零零四年十月十九日，議會舉行會員交流研討會。由會上一些會員提出的問題看來，他們對議會的歷史、角色、功能，以至對香港的多個與旅遊和旅遊業相關的組織和政府部門的職責都不甚了了。下文正好可以使會員對那些方面的問題有較深入的瞭解。此外，「議會簡報」有當晚交流研討會的報導；而通告 C848 則有交流研討會的問答摘要。)

(Editor's note: Some of the questions raised by members during the Members' Gathering held on 19 October 2004 reveal a rather conspicuous lack of understanding of the history, roles and functions of the TIC, as well as the responsibilities of various travel and tourism-related organisations and government departments in Hong Kong. This article thus serves to help members better grasp those matters. For coverage of the Gathering, please see "Council Bulletin"; and for the questions raised and the answers given during the Gathering, please see the circular C848.)

——十六年是一段不短的時間，無怪乎有些會員不清楚，  
——又或許只是忘記了議會為甚麼在二十六年前成立，  
又怎樣在多年間逐步發展成一個旅行社行業的自律組織，  
與負責發牌的旅行代理商註冊處相輔相成。讓我們在這裏  
上上歷史課，喚起會員的記憶吧。

一九七八年，航空公司準備推出一項「改善收益計劃」，  
打算把旅行社的佣金由百分之八大幅削減至百分之一點二。  
面對這麼一個存亡絕續的關頭，已故的吳坦先生與幾位業  
界領袖人物牽頭成立「全行旅行社臨時委員會」，準備打  
一場硬仗，一場最終取得了勝利的硬仗。委員會其後於一  
九七八年九月二十八日改組，議會於是正式成立。

在那些任情恣意的歲月，根本就沒有旅行社牌照這回  
事，業者可以說是完全不受任何監管的。但在一九八一和  
八二年時，越來越多外遊旅行社挾帶顧客的款項潛逃，迫  
使政府成立工作小組研究解決辦法。

議會明白為了外遊業的長遠發展，需要設立一個監管  
機制，於是游說政府以立法方式，設立外遊旅行社的發牌  
制度。一九八五年，當時的行政局通過對外遊旅行社發牌  
的建議，《旅行代理商條例》於是在同年十二月生效。條  
例規定所有外遊旅行社都必須向旅行代理商註冊處申領牌  
照，每家旅行社並須向依例成立的「旅行代理商儲備基金」  
繳付僅一次的徵費，金額為港幣二千五百元，以保障外遊  
旅客。

Twenty six years is a rather long time. Small wonder some members do not know, or have just forgotten, why the TIC was set up 26 years ago, and how it has evolved over the years to become a self-regulatory body of the travel agent industry complementing the licensing authority, the Travel Agents Registry (TAR). Some history lessons are perhaps needed to revive the memories of members.

In 1978, the airlines planned to introduce a so-called "Yield Improvement Programme" aimed at slashing agency commission from 8% to 1.2%. Faced with such a life-and-death crisis, the late Mr Harold Wu and a number of industry leaders took the initiative in forming the All Agents Ad Hoc Committee, which fought, and finally won, the battle. The Committee was later restructured to become the TIC on 28 September 1978.

In those freewheeling days, there was no such thing as a travel agent's licence and the industry was virtually subject to little regulation. Then during 1981 and 1982, an increasing number of outbound agents absconded with their customers' money, prompting the Government to set up a working group to look into the problem.

Recognising that a regulatory regime was necessary for the long-term development of the outbound industry, the TIC lobbied the Government for the establishment of a licensing mechanism with legislative backing. The Executive Council approved the proposal of licensing outbound agents in 1985 and the Travel Agents Ordinance subsequently took effect in December 1985, which required all outbound agents to obtain a license from the TAR. Also required by the Ordinance was for every outbound agent to pay a one-off payment of HK\$2,500 to the Travel Agents' Reserve Fund (TARF) set up under the Ordinance to protect outbound travellers.

可是，到了一九八六和八七年，幾家外遊旅行社相繼倒閉，耗盡基金的款項，令整個監管機制以失敗告終。為了賠償受影響的旅客，政府提出向所有外遊旅行社徵收額外徵費，結果引來業界激烈反對。為了使旅客有較佳保障，政府於是再提出三項建議：(一)實行保險制度；(二)規定外遊旅行社購買現金債券，確保它們履行責任；(三)把團費的三成存進託管帳戶。這些建議一旦推行，對業界的衝擊實在太大了，所以當議會提出一個以「隨收隨付」為原則的反建議時，業者都紛紛表示支持。這個「隨收隨付」的建議後來落實為徵收印花的安排，並且是一年後成立的「香港旅遊業議會儲備基金」(儲備基金)的基石。

議會與政府連番磋商後，終於說服對方，只要以「隨收隨付」為原則成立另一個基金，並由議會推行自律監管制度，將可以和發牌制度互補不足，為外遊旅客提供更佳保障。這樣的雙層監管制度寫進了《一九八八年旅行代理商(修訂)條例》，當條例於同年七月生效後，議會會籍就

However, such a regulatory regime soon proved to be a failure when the collapse of several outbound agents in 1986 and 1987 drained the TARF. To compensate the affected travellers, the Government proposed to impose an extra levy on all outbound agents, which was, naturally, met with vehement opposition. The Government then put forward three proposals with a view to better protecting travellers: (1) to set up an insurance system, (2) to require outbound agents to provide a cash bond to secure their performance of duties, or (3) to deposit 30% of the tour fares collected into an escrow account. The downside of these proposals was so evident that industry members rallied to support a counter-proposal devised by the TIC based on the principle of “pay as you earn”, which was later modified to become the levy arrangement and which would be the cornerstone of the TIC Reserve Fund (TICRF) to be set up a year later.

After lengthy negotiations, the TIC finally convinced the Government that with the establishment of another reserve fund based on the pay-as-you-earn principle, a self-regulatory mechanism implemented by itself would be able to complement the existing licensing system and to better protect outbound travellers. This two-tier regulatory sys-

### 1978

議會於九月成立。

The TIC is established in September.

### 1982

政府成立工作小組，研究解決外遊旅行社潛逃的辦法。

The Government sets up a working group to deal with the problem of outbound agents absconding with their customers' money.

### 1985

- ◆ 當時的行政局通過對外遊旅行社發牌的建議。
- ◆ 《旅行代理商條例》於十二月生效，規定外遊旅行社必須領取牌照。
- ◆ 「旅行代理商儲備基金」依條例成立。
- ◆ The Executive Council approves the proposal of licensing outbound agents.
- ◆ The Travel Agents Ordinance comes into effect in December, requiring outbound agents to obtain a licence.
- ◆ The Travel Agents' Reserve Fund (TARF) is set up under the Ordinance.

### 1986-1987

有幾家外遊旅行社倒閉，導致旅行代理商儲備基金無法向旅客作出賠償。

The collapse of several outbound agents makes the TARF unable to compensate the travellers.

### 1987

政府同意實施一個「雙層監管架構」，由旅行代理商註冊處發牌，而由議會實施行業自律監管措施。

The Government agrees to set up a two-tier regulatory system, under which the Travel Agents Registry is responsible for licensing outbound agents and the TIC for executing self-regulation of the industry.

### 1988

- ◆ 《一九八八年旅行代理商(修訂)條例》於七月生效，規定外遊旅行社必須成為議會會員，才會獲發牌照。
- ◆ 議會成立「香港旅遊業議會儲備基金」(儲備基金)。
- ◆ 議會並規定外遊旅行社必須向儲備基金繳付外遊團費的1%為印花費。
- ◆ 議會註冊成為有限公司，並以實報實銷方式向儲備基金申請撥款，以作營運開支。
- ◆ The Travel Agents (Amendment) Ordinance 1988 takes effect in July, making TIC membership a prerequisite for application for the licence.
- ◆ The TIC sets up the TIC Reserve Fund (TICRF).
- ◆ The TIC requires outbound agents to contribute a levy of 1% of the outbound tour fares received to the TICRF.

成為申領牌照的必要條件之一。而儲備基金也隨後成立，外遊旅行社必須把團費的百分之一存入基金作為印花費。議會為了執行這項新的自律監管職能，於是在一九八八年註冊成為有限公司，而營運開支則以實報實銷方式由儲備基金支付。

這次的雙層監管制度非常成功，儲備基金在幾年內已有超過港幣一億元的儲備。為了鞏固監管制度，政府於一九九三年再次修訂《旅行代理商條例》，成立「旅遊業賠償基金」(賠償基金)取代儲備基金。賠償基金是獨立的法定基金，由一個法人團體，即旅遊業賠償基金管理委員會負責管理。管理委員會由多名非官守委員和一名官守委員組成；非官守委員來自多個專業，此外還有外遊業及消費者委員會的代表，至於官守委員則是旅行代理商註冊主任。這次修例還取消了議會以實報實銷申請撥款的方式：由那時起直至現在，政府把部份印花費，即外遊團費的百分之零點一五撥給議會作營運開支。

tem was written into the Travel Agents (Amendment) Ordinance 1988, which took effect in July and which made TIC membership a mandatory requirement for the travel agent's licence. The TICRF was subsequently set up, requiring outbound agents to contribute 1% of the tour fares received to the fund. To fulfil its newly acquired self-regulatory function, the TIC was incorporated in 1988, with its operation expenses reimbursed by the TICRF.

The two-tier regulatory system worked so well that the reserve of the TICRF soon surpassed HK\$100 million in a few years. To consolidate the system, the Government again amended the Travel Agents Ordinance, which became operative in October 1993 and under which the Travel Industry Compensation Fund (TICF) was established to replace the TICRF. An independent statutory fund, the TICF is managed by a body corporate, the Travel Industry Compensation Fund Management Board, composed of several unofficial members drawn from a number of professions as well as the outbound travel industry and the Consumer Council, and one official member, the Registrar of Travel Agents. Also changed under this Amendment Ordinance was the way in which the TIC was financed. Instead of receiving reimbursements, the TIC began to be allocated a

- ◆ The TIC is incorporated, with its operation expenses reimbursed by the TICRF.

#### 1990

議會成為《防止賄賂條例》下的公共機構。

The TIC becomes a public body under the Prevention of Bribery Ordinance.

#### 1991

議會向政府爭取到在當時的立法局設立旅遊界功能組別議席。

The TIC successfully lobbies the Government to create a Tourism Functional Constituency seat on the Legislative Council.

#### 1992

印花費於九月減至 0.5%。

The levy rate is reduced to 0.5% in September.

#### 1993

- ◆ 《一九九三年旅行代理商(修訂)條例》於十月生效，「旅遊業賠償基金」(賠償基金)依條例成立，取代儲備基金。
- ◆ 政府決定將 0.5% 印花費中的三成，即 0.15%，撥給議會作營運開支，取代實報實銷申請撥款的方式。
- ◆ The Travel Agents (Amendment) Ordinance 1993 becomes effective in October, under which the Travel Industry Compensation Fund (TICF) is established to replace the TICRF.

- ◆ The Government decides to allocate 30% of the levy collected, i.e. 0.15% of the outbound tour fares, to the TIC for its operation expenses, thus replacing the arrangement of reimbursement of expenses.

#### 1996

「旅行團意外緊急援助基金計劃」於二月付諸實施。

The Package Tour Accident Contingency Fund Scheme is launched in February.

#### 1997

印花費於五月由 0.5% 減到 0.3%，但撥給議會作營運開支的印花費仍然是 0.15%。

The levy rate is lowered from 0.5% to 0.3% in May, of which the portion allocated to the TIC remains 0.15%.


#### 2002

《二零零二年旅行代理商(修訂)條例》於十一月生效，規定所有入境旅行社必須領取牌照，而發牌條件之一是必須先成為議會會員。

The Travel Agents (Amendment) Ordinance 2002 takes effect in November, under which all inbound agents are required to be licensed and TIC membership is a mandatory requirement for the licence.

自從一九九七年後，內地逐步放寬公民前往港澳及外地的限制。但很不幸，不少內地旅客遭一些無良的入境旅行社欺騙，又或者成為狡詐的商舖的獵物。議會清楚知道這種情況假如不加以制止的話，勢必損害香港的聲譽，於是另一方面推出一系列措施，監管同時經營入境業務的會員，另一方面則游說政府設立與外遊業監管機制相似的機制。政府鑒於議會過往執行外遊業自律監管的成績非常出色，認為要給入境旅行社推行同樣制度的話，議會可以說是不二之選。於是當《二零零二年旅行代理商(修訂)條例》於同年十一月生效後，入境旅行社就和外遊旅行社一樣，也要領取牌照和接受議會的監管了。


好了，議會的歷史就說到這裏。現在再來上上法律課，因為好像有人質疑：「你究竟能不能指出《旅行代理商條例》的哪章哪節說『議會有權監管旅行社』？」答案其實挺簡單：《旅行代理商條例》可用不着明說「議會有權監管旅行社」呢，它的方法比較巧妙，也就難怪有些人摸不着頭腦了。條例的做法是把議會指定為唯一的「認可機構」，並同時規定議會的會籍是申領旅行代理商牌照的法定要求，那樣一來，就足以賦予議會監管會員的權力了。因為假如任何會員不遵守議會的規例，那它們的議會會籍就岌岌可危；議會的會籍岌岌可危，就連牌照也岌岌可危了。整個自律監管機制的運作就是那麼簡單。

議會當初所以誕生，是為了維護外遊旅行社的利潤。此後在很多關鍵時刻，議會都衝破了無數困厄，同時保障業界和旅客的利益；上文所勾勒的不過是一小部份而已。旅遊業靠的其實是「信任」兩字，業者理應拚命維護這兩字才對。大家不妨細想想：假如旅客不信任旅行社，為甚麼要馬上把幾千元交給旅行社，幾星期，甚至幾個月後才獲得旅遊服務或旅遊產品？保障旅客就是保障業者，兩者的利益是完全一致的。從這樣的角度來考慮，大家不妨再細想想：假如二十六年來議會沒有成立，旅遊業會變成怎樣？

portion of the levy until the present, the percentage of which equalled 0.15% of the outbound tour fares, in order to subsidise its operation expenses.

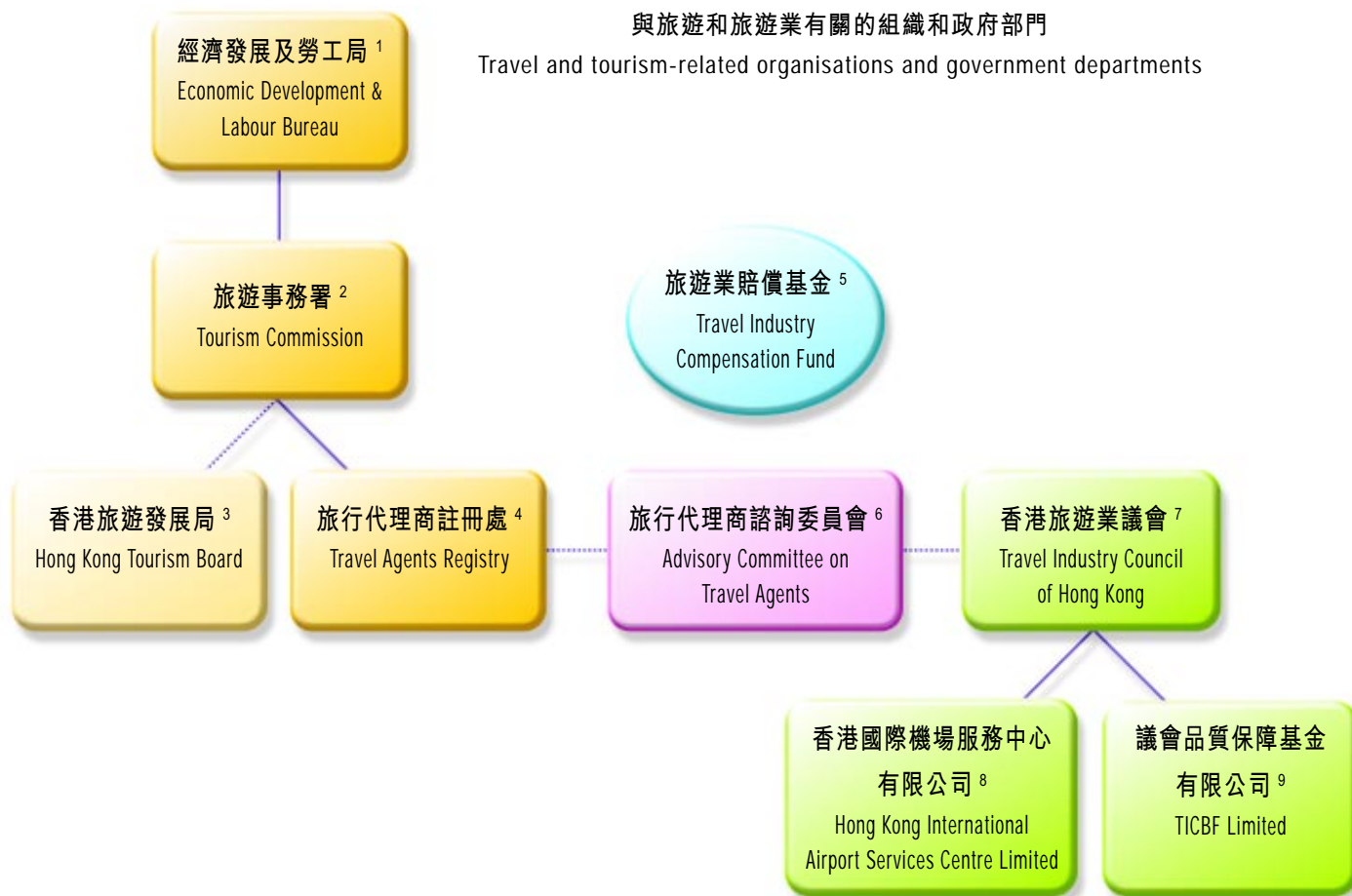
After 1997, mainland China gradually allowed more of its citizens to travel to Hong Kong and Macao and to overseas destinations. Unfortunately, not a few mainland visitors were short-changed by some unscrupulous inbound agents or fell prey to dishonest retailers. Realising that such a situation would, if left unchecked, mar the reputation of Hong Kong, the TIC put in place, on the one hand, a series of measures to regulate its members that were also doing inbound business, and lobbied the Government, on the other hand, for an inbound regulatory system similar to the outbound one. The TIC having a superb track record in executing outbound self-regulation, the Government found it the ideal candidate to take up the task of implementing a similar system for inbound agents. Then in November 2002, the Travel Agents (Amendment) Ordinance 2002 took effect, under which inbound agents were required to be licensed by the Government and regulated by the TIC like their outbound counterparts.

So much for the history of the TIC. Let us now have some law lessons because some people have apparently asked, "Can you point it out to me which part of the Travel Agents Ordinance says that the TIC has the authority to regulate travel agents?" Well, the answer is quite simple: the Ordinance need not state explicitly that "the TIC has the authority to regulate travel agents"; it is subtler than that and may therefore have baffled some. By designating the TIC as the only "approved organisation" and at the same time making its membership a statutory requirement for the travel agent's licence, the Travel Agents Ordinance has sufficiently empowered the TIC to regulate its members: any members that do not obey TIC rules will have their TIC membership at stake, thus making their licence at stake, too. The way in which self-regulation works is as simple as that.

The TIC was born out of a need to protect the profit margin of outbound agents. And it has risen to countless challenges, only a small portion of them being outlined in the above, at many a critical moment to safeguard the interests of both the industry and the traveller. "Trust" being the bedrock of the industry, it should have been jealously guarded by all industry members. This question may perhaps be worth pondering over: If travellers do not trust a travel agent, why should they give it thousands of dollars now, and get their travel services or products weeks or sometimes months later? Protecting travellers is protecting traders; their interests are exactly in sync. Seen in this light, this may also be worth pondering over: What would the industry have become if the TIC had not been set up 26 years ago? 



與旅遊和旅遊業有關的組織和政府部門  
Travel and tourism-related organisations and government departments



- <sup>1</sup> 政府的決策局，其中一個政策範疇為旅遊業  
a government policy bureau, one of its portfolios being tourism
- <sup>2</sup> 於一九九九年成立的政府部門，專責旅遊業的政策發展  
a government department set up in 1999 responsible for tourism development
- <sup>3</sup> 由政府撥款資助的半官方機構，負責推廣香港的旅遊業  
a subvented quasi-government body responsible for promoting Hong Kong tourism
- <sup>4</sup> 於一九八五年成立的政府部門，專責旅行社的發牌及監管工作  
a government department set up in 1985 charged with licensing and monitoring travel agents
- <sup>5</sup> 於一九九三年成立的獨立法定基金  
an independent statutory fund set up in 1993
- <sup>6</sup> 根據《旅行代理商條例》成立的諮詢組織，就與旅行社相關的事宜給政府提供意見  
an advisory body set up under the Travel Agents Ordinance

- <sup>7</sup> 於一九七八年成立、並由一九八八年起獲政府授權監管旅行社的非官方機構  
a non-government body set up in 1978 and tasked by the Government to monitor travel agents since 1988
- <sup>8</sup> 議會全資擁有的附屬公司，在香港國際機場營運兩個櫃檯供會員使用，已於二零零四年九月三十日停止運作，兩個櫃檯現由議會繼續營運  
the TIC's wholly owned subsidiary whose operation already ceased on 30 September 2004, it was set up to operate two counters, now operated by the TIC, at Hong Kong International Airport for members
- <sup>9</sup> 議會全資擁有的附屬公司，於一九八三年成立，設立並營運品質保障基金，資金來自會員入會時繳付的港幣二千元，退會時可全數取回有關款項  
the TIC's wholly owned subsidiary set up in 1983 to operate the Bonding Fund, which is financed by the refundable HK\$2,000 contribution made by each member when joining the TIC