LCQ17: Double taxation relief for income from international operation of ships

Following is a question by the Hon Frankie Yick and a written reply by the Secretary for Transport and Housing, Mr Frank Chan Fan, in the Legislative Council today (August 18):

Question:

The authorities of the United States (US) announced in October last year that starting from January 1, 2021, they would terminate the Agreement Constituted by Exchange of Notes between the Government of the United States of America and the Government of Hong Kong for Double Taxation Relief in respect of Income from International Operation of Ships (the Agreement) (Schedule to Cap. 112J) signed with Hong Kong. Following the termination of the Agreement, both the Governments of US and Hong Kong have ceased to grant tax exemption to the income derived from international operation of ships by shipping companies of the other side. Members of the shipping industry are concerned about the impacts of the termination of the Agreement on Hong Kong's shipping industry. In this connection, will the Government inform this Council:

(1) whether it knows how the respective business performance (including that in terms of freight volume and total value of goods) of Hong Kong and US shipping companies after the termination of the Agreement compares with their performance before the termination of the Agreement;

(2) given that the income derived by Hong Kong shipping companies from international operation of ships is no longer granted tax exemption by the US Government, whether the Government knows the consequential increase in the operating costs of such companies;

(3) whether it knows among the Hong Kong and overseas shipping companies operating in Hong Kong immediately before the termination of the Agreement, the respective numbers and percentages of those which have now ceased or are planning to cease operation in Hong Kong;

(4) whether it has assessed the impacts of the termination of the Agreement on Hong Kong's shipping industry; if so, of the details; if not, the reasons for that; whether it will explore with members of the shipping industry measures for mitigating such impacts; and

(5) whether it will strive to sign with more economies (particularly the member countries of the Association of Southeast Asian Nations, which have achieved rapid economic development in recent years) agreements on double taxation relief that will benefit the shipping industry, so as to enhance the competitiveness of Hong Kong's shipping industry; if so, of the relevant

timetable; if not, the reasons for that?

Reply:

President,

â€‹The US formally announced in October 2020 to terminate the Agreement Constituted by Exchange of Notes between the Government of the United States of America and the Government of Hong Kong for Double Taxation Relief in respect of Income from International Operation of Ships (the Agreement) in respect of income from international shipping operations between the US and Hong Kong concluded in 1989 with effect from January 1, 2021. The Agreement provides for exemption from income tax, on a reciprocal basis, of income derived by residents/companies of the other from the international operation of ships. The trade has expressed that the termination of the Agreement would increase the operating costs of shipping companies and undermine the shipping business in both places. On this, we are working with the trade to devise measures to mitigate the adverse impact on the trade.

In consultation with the Financial Services and the Treasury Bureau on the reply to part 5 of the question, our reply to various parts of the Hon Frankie Yick's question is as follows:

(1) In the first quarter of 2021 (latest released figures), water-borne cargo volume between Hong Kong and the US in tonnage terms amounted to 1.81 million tonnes. Comparing on a year-on-year basis to remove the effect of seasonal fluctuations, it decreased by 8.0 per cent over the 1.97 million tonnes in the first quarter of 2020. Over the same period, laden container throughput between the two places decreased by 2.6 per cent from 236 000 twenty-foot equivalent units (TEUs) to 230 000 TEUs. In terms of trade value, in the first half of 2021, water-borne trade value between Hong Kong and the US amounted to HK$47.9 billion, constituting a rise of 6.0 per cent over the HK$45.2 billion in the first half of 2020, reflecting the increase in cargo volume of high-value goods such as machinery equipment.

(2) Upon the termination of the Agreement, Hong Kong residents are required to pay US tax in respect of their shipping income generated from "US uplifts" and "US discharge". Since the amount of US tax paid by Hong Kong shipping companies would hinge on their business revenues, which in turn are affected by a host of factors including the share of US business operation for individual companies, the external trading environment, the demand-supply balance of transport capacity and freight rates, it is therefore difficult to estimate the amount of cost increase.

(3) According to the latest figures from the Census and Statistics Department's Quarterly Survey of Employment and Vacancies, considering only those shipping companies engaging in water transport (including ship owners and operators of sea-going and river vessels, local representative offices of overseas shipping companies, ship agents and managers, inland water transport), the number of relevant Hong Kong establishments as at end-March 2021 was 410, same as that at end-2020.

(4) The US is a large market. Seaborne trade to North America accounted for 8.8 per cent of the world total in tonnage terms and that to the US accounted for some 7 per cent of the world total in terms of TEUs in 2019. The Government fully understands the adverse impact brought by the US' termination of the Agreement on the local shipping industry. We have been in close discussion with the trade to work out the mitigation measures, and are seeking legal advice on this matter.

(5) The Government has all along endeavoured to expand Hong Kong's comprehensive avoidance of double taxation agreement /arrangement (CDTA) network. The current-term Government has since July 2017 signed CDTAs with eight jurisdictions, bringing the total number of CDTAs to 45, of which six CDTA partners are member states of the Association of Southeast Asian Nations. Besides, the Government has concluded double taxation relief agreements in respect of shipping/shipping and airline income with five other jurisdictions (viz. Denmark, Germany, Norway, Singapore and Sri Lanka), and confirmed reciprocal tax exemption arrangement on shipping income with Chile. The Government is currently in negotiations with 13 jurisdictions. We will strive to conclude the negotiations and sign the CDTAs as soon as possible, and will continue to proactively identify negotiation partners.