

**LegCo Panel on Manpower
(Meeting to be held on 18 July 2002)**

**Implications of Agreement on Government Procurement
of the World Trade Organisation on
Local Employment**

Purpose

This paper briefs members on : (a) the implications of the World Trade Organisation Agreement on Government Procurement (WTO GPA) on the Hong Kong Special Administrative Region Government's (HKSARG) procurement policy and local employment, and (b) the use of prefabricated parts in HKSARG's construction projects.

Background

2. The WTO GPA aims at ensuring that its contracting parties conduct government procurement in accordance with the two major principles of "non-discrimination" and "transparency" in order to obtain the best value for money. The principle of "non-discrimination" includes most-favoured-nation treatment and national treatment. This means that, for procurement covered by the Agreement, a party shall accord the suppliers of another party treatment no less favourable than that accorded to suppliers of any other parties or any local suppliers.

3. Hong Kong has acceded to the WTO GPA for five years. Before that, we were a party to the WTO GPA's predecessor – General Agreement on Tariffs and Trade (GATT) Agreement on Government Procurement. The parties to the WTO GPA include the biggest developed economies in the world, with enormous government procurement markets. The GPA provides the legal certainty for non-discriminatory access by Hong Kong's suppliers of goods and services to the government procurement markets of other parties. It also ensures that Hong Kong's suppliers compete on an equal footing with suppliers of other parties in those markets.

Expanding overseas markets provides local companies with more business opportunities which, in turn, encourage investments and create jobs.

Government Procurement Policy

4. The procurement policy of the HKSARG is guided by the policy objectives of achieving the best value for money and maintaining open and fair competition. By encouraging participation through open, fair and transparent procurement procedures and practices, the Government seeks to obtain responsive and competitive tenders from which to determine the most advantageous one which best serves HKSAR's public interest. At present, procurement contracts for all goods and certain services by all bureaux and departments of HKSARG ("government entities") and five public bodies¹ ("other entities") above the applicable threshold values are covered by the GPA. As for construction services, WTO GPA applies to procurement of construction services (but excluding consultancy services and franchise agreements) of values exceeding \$50 million.

5. As a signatory to the WTO GPA, Hong Kong is fully committed to the principles of non-discrimination, transparency and accountability in the procurement process. The Agreement prescribes procedural requirements regarding non-discriminatory treatment of goods, services and service suppliers, qualification of suppliers, tender procedures and tender specifications. An example of these requirements is that the technical specifications should be in terms of performance, and that reference to specific origin or supplier should be avoided. In the event of a complaint or challenge by a supplier that there has been a breach of the Agreement, such challenges should be heard by an independent review body. The principles underlying the Government's procurement system are fully consistent with the spirit and objectives of the WTO GPA.

Monitoring Mechanism under Government Procurement Policy

6. We have incorporated the requirements of the WTO GPA into the Stores and Procurement Regulations issued under the Public Finance Ordinance. All Government departments must comply with these

¹ They are Airport Authority; Housing Authority and Housing Department; Hospital Authority; Kowloon-Canton Railway Corporation; and MTR Corporation Limited.

regulations. In accordance with the requirements of WTO GPA, the Government has set up the Review Body on Bid Challenges to deal with challenges against alleged breaches of WTO GPA. So far, the Review Body has heard one such challenge.

Use of Prefabrication in Construction Works

7. "Prefabrication" in the construction industry can be defined as the execution of construction processes to produce parts or components at locations other than the final positions of the products. Examples are paving blocks which are cast at prefabrication yards and placed along the carriageway forming a footpath; and precast beams which are manufactured at precast yards, and then transported to site for erection to its final position supporting the designed loading. There are a number of advantages in using prefabrication in public works projects. As prefabrication works are carried out under a factory environment, a much better quality can be achieved. There will generally be less defective products and material wastage. The reduction of construction waste is more environmentally friendly and will also save valuable landfill capacity in Hong Kong. Moreover, prefabrication can also reduce the interface among different trades on site. The site will naturally become tidier and safer to work. With economy of scale, the scope of cost reduction by prefabrication will be very substantial. The execution of time-consuming processes off-site can also achieve speedy project delivery and hence reduction in the overheads.

8. Nevertheless, the wider use of prefabrication will drive a shift of employment from construction sites to prefabrication yards, the locations of which are not necessarily in Hong Kong. More skilled labour will be required at the prefabrication yards while less unskilled labour on construction sites.

9. The Construction Industry Review Committee (CIRC) has also recognised the above advantages and disadvantages, and stated in its report that "All factors considered, we (*the CIRC*) take the view that to stay competitive, our (*Hong Kong's*) construction industry will have to adopt a manufacturing approach with an emphasis on prefabrication and standardised components in line with global trends." The CIRC also pointed out that "The carrying out of production activities off-site and the use of other

efficient construction methods (e.g. use of system formwork) will have implications for construction manpower demand. Adequate training and retraining will need to be provided to facilitate this technological migration."

Scale of Prefabrication Work in Housing and Public Works Projects

10. The Housing Authority (HA) has been adopting prefabrication to achieve good quality, long-term economy of scale, and better environmental protection. Currently, prefabricated components include mainly facades, staircases and dry-wall partitions. These approximately account for 20% of the building construction works in terms of concrete volume. Almost all of them are prefabricated in the Mainland.

11. Public works construction covers a very wide range of construction processes and therefore the proportion of prefabrication work in one project may differ greatly from another, even if they are managed by the same works department. The proportion can be as low as less than 1% but may be as high as 20% due to the nature of works. It is estimated that an average of 6% of public works construction can be classified as fabricated parts. Out of all the prefabricated parts, around 75% is manufactured outside Hong Kong.

Evaluation on Prefabrication Work in Hong Kong

12. We are mindful of the need to create employment opportunities in Hong Kong, particularly given the current difficult situation. The Government has considered the possibility of introducing various measures to require prefabrication work for public works projects to be executed in Hong Kong with a view to ensuring the creation of job opportunities locally. These include the imposition of contractual requirement that the testing of prefabricated parts be carried out in Hong Kong and that the prefabrication work be carried out in Hong Kong altogether.

13. However, in line with the HKSARG's commitment under the WTO GPA, any requirements relating to conformity assessment procedures, prescribed by procuring entities (i.e. Government or other entities which are covered by WTO GPA) shall not be prepared, adopted or applied with a view to, or with the effect of, creating unnecessary obstacles to international trade.

In addition, the WTO GPA stipulates that, when qualifying and selecting suppliers, goods or services, evaluating tenders and awarding contracts, a procuring entity cannot impose, seek or consider offsets. "Offsets" mean measures used to encourage local development or improve the balance-of-payments accounts by means of domestic content, licensing of technology, investment requirements, counter-trade or similar requirements. The legal advice is that it would be contrary to the relevant WTO GPA provisions on "offsets" if the Government imposes the requirements suggested in paragraph 12 above for the sole purpose of creating local employment opportunities.

Monitoring of Quality of Prefabrication Work

14. The Government and the Housing Authority have put in place a quality control system for prefabricated works both within and outside Hong Kong. For Government construction works, the prefabricated works will be subject to supervision by either consultant's resident site staff or in-house staff. Moreover, the Government has also imposed random and surprise inspections to ensure the quality of the prefabrication works.

15. The Housing Authority adopts the following measures to ensure the quality of prefabricated components –

- (a) the suppliers of prefabricated components shall be pre-qualified by the Housing Authority;
- (b) the suppliers shall operate a quality management system certified to ISO 9000 standard;
- (c) samples of concrete and steel reinforcement are taken from the prefabricated components manufacturing plants and then tested in Hong Kong;
- (d) prefabricated components are inspected on construction sites and further tested where necessary;

For precast facades and staircases in particular,

- (e) the suppliers shall source their concrete supply from concrete suppliers accredited under the “Quality Scheme for the Production and Supply of Concrete” operated by the Hong Kong Quality Assurance Agency; and
- (f) The Housing Authority employs an independent consultant to carry out inspections during the production process, and conducts audit on the consultant’s work.

The Way Forward

16. In view of persistently high unemployment in Hong Kong, the Government’s top priority is to ease unemployment and help job creation. We will spare no efforts in facilitating employment, and we welcome views and suggestions from the public to help formulate a multi-pronged approach in creating employment opportunities. In respect of the use of prefabrication in construction works, we will consider various ways to strike a balance between the advantages and disadvantages of the wider use of prefabrication. In particular, we will explore practical measures to encourage contractors to execute the prefabrication work locally without contravening WTO GPA. We hope to reap the benefits of prefabrication while minimising its adverse impact on employment situation in Hong Kong.

Economic Development and Labour Bureau
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