

**LEGISLATIVE COUNCIL
PANEL ON COMMERCE AND INDUSTRY**

**The World Trade Organization Services Negotiations
and Public Services**

Purpose

This note sets out the Administration's stance on the World Trade Organization (WTO) negotiations on trade in services and the impact of such negotiations on the provision of public services.

Background

2. The General Agreement on Trade in Services (GATS) of the WTO, which came into force in January 1995, is the first and only multilateral as well as legally-enforceable agreement governing international trade in services. It applies to measures by WTO Members which affect trade in services, but does not apply to those services supplied "in the exercise of governmental authority", which are defined under Article I:3 of the GATS as services that are neither supplied on a commercial basis nor in competition with one or more service suppliers.

3. The new round of services negotiations began in early 2000. The Services sector, which accounts for almost 90% of our GDP, is the backbone of Hong Kong's economy. Given our free and open regime, Hong Kong will stand to gain from the removal of market access restrictions by our trading partners in their services sectors. It is against this backdrop that the Government has been participating in the WTO services negotiations in an active and constructive manner.

Misconceptions on the WTO services negotiations

4. There are misunderstandings among some civil service unions and non-governmental organizations (NGOs) that the WTO services negotiations will lead to the privatization or outsourcing of public services, thereby affecting the job security and livelihood of serving civil servants or employees engaged for the provision of such services.

Public services are not within the ambit of the GATS

5. As a matter of fact, the GATS does not apply to public services

which are neither supplied on a commercial basis nor in competition with one or more service suppliers. As mentioned above, these services are excluded from the coverage of the GATS by virtue of Article I:3 of the GATS. It follows that basic public services such as water, health care and education provided by the Government are outside the ambit of the GATS. The fact that a number of Government departments charge users for their services to cover operating costs (such as the trading fund departments) does not mean that they operate on a commercial basis and therefore fall within the purview of GATS.

WTO services negotiations will not lead to privatization or outsourcing of public services

6. The GATS does not require the privatization or outsourcing of any public services. Neither would the services negotiations pave the way for privatization of any government departments or outsourcing of any government services. The objectives of and position taken by the Hong Kong negotiating team are formulated within the parameters of the HKSAR's Government existing policies. Bureaux/departments have full authority to decide how best to supply, manage or finance their services.

7. Indeed, a cardinal WTO principle is that Members are free to decide whether or not to open up certain services and if so, the extent and timetable of such liberalization, and whether to make commitments on the relevant services under the GATS. To safeguard the overall interest of Hong Kong, the Government will, as we have always done, continue to exercise prudence in formulating our offers under the services negotiations by giving due regard to Hong Kong's economic and social conditions. We will not undertake any commitments that adversely affect local employment.

*Trade and Industry Department
February 2006*