

For discussion
on 21 July 2006

Legislative Council Panel on Education

Liberalization of Higher Education Services under the World Trade Organization General Agreement on Trade in Services

Introduction

This paper informs Members of the background of the World Trade Organization (WTO) General Agreement on Trade in Services (GATS) negotiations, the negotiations on education services in the WTO, and Hong Kong, China (HKC)'s position on education services in the negotiations.

The WTO Services Negotiations

2. The WTO launched a new round of services negotiations in 2000. To prepare for the negotiations, the Government had previously conducted two large-scale public consultation exercises, one in 2002 and the other in 2005. The views collected have formed the basis for drawing up HKC's negotiation positions, as well as the requests and offers for further liberalisation in trade in services.

3. The WTO services negotiations are now at its final stage and are expected to conclude by end 2006 or early 2007. According to the timelines set in the Hong Kong Ministerial Declaration (HKMD) adopted last December, WTO Members are required to submit a second round of revised offers by 31 July 2006 and final offers of commitments by 31 October 2006. To further develop our positions for the services negotiations, and to ensure that the prevailing interests of the community are represented, the Government conducted a third round of public consultation from March to May 2006.

4. During the consultation period, the Director-General of Trade and Industry (DGTI) met with the representatives of the Hong Kong Confederation of Trade Unions and a number of other labour unions on 12 May 2006 to discuss HKC's participation in the services negotiations. DGTI briefed the union representatives on the latest state of play of the services negotiations, explained HKC's position in the negotiations, and

provided information on the six sets of collective requests¹ that HKC received in March 2006 from other WTO Members. DGTI informed the participants that Trade and Industry Department would consult the bureaux/departments responsible for the relevant services sectors as to how HKC should respond to these requests. As consultation with bureaux and departments was still underway at the time of the meeting with unions, DGTI did not indicate any specific commitments that would be included in HKC's second revised offers.

Negotiations in Education Services

5. Negotiations in the WTO on education services have not advanced much during the last few years. So far, only a few WTO Members have offered commitments on certain education services. Pursuant to the timeline stipulated in the HKMD, five WTO Members interested in education services tendered a collective request to 21 target Members including HKC on 13 March 2006, seeking commitments on private higher education and/or private other education services only. There is no request for liberalization in public education services.

Our Private Higher Education Regime

6. Hong Kong already has in place a liberal private higher education regime, which facilitates overseas service providers to provide non-local courses in Hong Kong. Non-local courses offered in Hong Kong leading to the award of non-local higher academic qualifications (i.e. sub-degree, degree, postgraduate or other post-secondary qualifications) or professional qualifications are governed by the Non-local Higher and Professional Education (Regulation) Ordinance (Cap. 493) (the Ordinance). The Ordinance provides that non-local courses should be registered, unless they are exempted from registration² under the Ordinance. The overall objective of the Ordinance is to protect local students' interest by ensuring that the standard of the non-local course offered in Hong Kong is comparable to a course leading to the same qualification in its home country.

¹ These six set of collective requests seek HKC's further commitments in air transport services, architectural/engineering/ integrated engineering services, construction and related engineering services, education services, legal services, and postal/courier services (including express delivery).

² The following courses are exempted from the registration requirement under the Ordinance:

- (a) courses conducted in collaboration with a specified local institution of higher education;
- (b) purely distance learning courses; and
- (c) courses conducted solely by local registered schools and local institutions of higher education.

HKC's Position on Education Services in the WTO negotiations

7. In formulating HKC's offers for the current round of services negotiations, the Government would take into account a number of factors such as the requests tendered by our trading partners, the policy and regime governing a specific service sector, the export interest of our domestic service suppliers, the implications of commitments on all relevant stakeholders, as well as the overall negotiation dynamics in the WTO. Our prime objective is to safeguard and pursue the overall economic interest of Hong Kong, including to secure the best possible market access for our service suppliers, and to provide the best possible environment for Hong Kong to attract foreign investment. We will, as we have always done, exercise prudence in drawing up the services offers having due regard to Hong Kong's economic and social conditions. The same principle applies to all service sectors including education services.

8. HKC has not made any commitments in respect of education services under the GATS. Neither have we offered any commitments in education services in the current round of services negotiations. Provided that education service providers offering non-local courses can meet the requirements under the Non-local Higher and Professional Education (Regulation) Ordinance, they should have no problem entering our private higher education services market. While we have yet to decide on the final package of HKC's offer for this round of negotiations because of the fluid situation in the overall WTO negotiations, we have no plans to offer commitments in education services for the time being.

9. We fully appreciate the concerns over making any possible commitments in public education services, which are in fact also shared by other WTO Members seeking further liberalization in education services. The commitments that they seek in the collective request are therefore limited to "private education services". Members can thus be rest assured that, even if HKC were to make any commitments in education services, they would only apply to those provided by private education providers and would not go beyond the existing level of openness of our regime; and that any such commitments would not affect our publicly-funded education institutions or jeopardize the employment of their staff.

**Education and Manpower Bureau
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