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Panel on Commerce and Industry

Meeting on 17 November 2015

Background brief on Doha Development Agenda and plurilateral agreements relevant to Hong Kong under World Trade Organization

Purpose

This paper provides background information on the negotiations in relation to the Doha Development Agenda ("DDA") and some plurilateral agreements relevant to Hong Kong conducted under the auspices of the World Trade Organization ("WTO"). It also summarizes the views expressed by Members during previous discussions on relevant issues.

Background

The World Trade Organization

2. The WTO was established on 1 January 1995, as a result of the Uruguay Round of Multilateral Trade Negotiations concluded in 1994¹. The predecessor of the WTO is the General Agreement on Tariffs and Trade. The WTO is the only international body dealing with the rules of trade among states and separate customs territories.

¹ Most of the WTO agreements are the results of the 1986–94 Uruguay Round negotiations signed at the Marrakesh ministerial meeting in April 1994. The legal texts of the agreements negotiated in the Uruguay Round are now the legal framework of the WTO. "The Results of the Uruguay Round of Multilateral Trade Negotiations: The Legal Texts" can be viewed at https://www.wto.org/english/docs_e/legal_e/legal_e.htm

3. Hong Kong is a founding member of the WTO. Hong Kong's separate membership, under the name of "Hong Kong, China", continues after reunification with the Mainland of China on 1 July 1997.

4. The WTO's main objective is to help trade flow smoothly, freely, fairly and predictably. The WTO agreements² provide the legal ground-rules for international commerce. They are essentially contracts, binding governments to conduct their trade and trade policies according to principles and rules. Although negotiated and signed by governments, the goal of the WTO agreements is to help producers of goods and services, exporters, and importers conduct their business. WTO currently has 161 members. The WTO's highest decision-making body is the Ministerial Conference ("MC") which meets at least once every two years.

Doha Development Agenda

5. The DDA negotiations were launched at the Fourth MC of the WTO held in 2001 in Doha, Qatar. The DDA aims to liberalize trade in agricultural products, industrial goods and services, as well as to improve global trade rules. Addressing developmental concerns of the less developed economies is a key objective underlying the DDA negotiations. According to the Administration, no significant progress had been made since the Sixth MC held in Hong Kong in 2005.

6. At the Ninth MC of the WTO ("MC 9") held in Bali, Indonesia, in December 2001, WTO Members delivered a "Bali package" which comprised a new Agreement on Trade Facilitation ("TFA") and nine other decisions on agriculture and development issues. They also agreed to prepare a clearly defined work programme for the remaining issues on the DDA, known as the Post-Bali Work Programme ("PBWP"), by December 2004. However, in view of the slow progress of negotiations on the remaining Doha issues, WTO Members could not agree on a PBWP by the extended deadline of end July 2005.

7. The TFA is the first multilateral trade agreement concluded by the WTO since its establishment in 1995. Comprising three sections³, the TFA sets out

² The WTO agreements cover goods, services and intellectual property. They spell out the principles of liberalization and the permitted exceptions and include individual members' commitments to lower customs tariffs and other trade barriers, to open and keep open services markets, and to protect intellectual property. In addition, they set procedures for settling disputes, and prescribe special treatment for developing economies. They require governments to make their trade policies transparent by notifying the WTO about laws in force and measures adopted, and through regular reports by the secretariat on members' trade policies.

³ Section I contains provisions relating to disciplines on various import/export and custom clearance areas. Section II sets out special and differential treatment for developing and least-developed WTO Members. Section III sets out the institutional arrangements.

binding obligations for all WTO Members to improve and harmonize their import/export and customs formalities and procedures to make cross-border trade easier, help reduce costs and improve efficiency for both business and governments. On 27 November 2014, the WTO completed the necessary technical work and formalities and opened the TFA for Members' acceptance. On 8 December 2014, Hong Kong became the first WTO Member to join the TFA.

Plurilateral agreements under the WTO context

8. Different from the multilateral agreement where all WTO Members are party to the agreement, a plurilateral agreement involves only some (and not all) WTO Members. The trade related plurilateral agreements under WTO context relevant to Hong Kong include the Agreement on Government Procurement ("GPA"), Information Technology Agreement ("ITA"), Trade in Services Agreement ("TiSA") and the Environmental Goods Agreement ("EGA").

Agreement on Government Procurement

9. The GPA was first concluded in 1994. As a member of the WTO, Hong Kong acceded to the GPA in May 1997. Under the said Agreement, the Hong Kong Government is obliged to, with respect to procurement of goods and services covered by its commitments, provide open and non-discriminatory treatment to all goods and services irrespective of their country of origin, and to provide for open and fair competition amongst domestic and foreign suppliers.

10. In 2012, Parties to the GPA agreed to revise the agreement in order to make it more user-friendly. Entering into force on 6 April 2014, the revised GPA provides more clearly for the special and differential treatment for developing country Members to facilitate future accessions by such Members, and widens the coverage of the GPA which may bring additional business opportunities to suppliers of GPA Parties.

Information Technology Agreement

11. Hong Kong is a signatory to ITA concluded in December 1996. Under the ITA, tariffs on IT products, components and sub-assemblies were reduced to zero in four phases ending 1 January 2000, except for those pertaining to a few Participants who have negotiated a longer phasing out period. Benefits of the ITA are extended to all WTO Members including those which have not signed this Agreement by virtue of the most-favoured nation ("MFN") principle. Hong Kong has participated in the plurilateral negotiations to expand the product coverage of the ITA. After 17 rounds of negotiations, 25 Participants agreed to eliminate tariffs for 201 additional products, and are now working to finalize the implementation plan.

Trade in Services Agreement

12. Some WTO Members, including Hong Kong, which seek more ambitious liberalization in services trade are taking a plurilateral approach to negotiate a TiSA. Based on WTO's existing General Agreement on Trade in Services⁴ ("GATS"), TiSA aims to improve market access and develop new and enhanced disciplines for a wide range of services sectors. As at end September 2015, 12 rounds of formal negotiations have been concluded.

Environmental Goods Agreement

13. Hong Kong is one of the 17 WTO Members participating in the plurilateral negotiations on EGA formally launched in July 2014. The negotiations aim at eliminating tariffs on a wide range of environmental goods and addressing non-tariff issues relevant to the liberalization of trade in environmental goods. The benefits of the agreement will be extended to all other WTO Members on a MFN basis. As at end September 2015, nine rounds of negotiations have been held.

Previous discussions

14. The Panel on Commerce and Industry ("CI Panel") was briefed by the Administration on Hong Kong's participation in the agreements of the WTO and DDA negotiations at its meetings on 17 January 2006 and 13 February 2007. The CI Panel was subsequently updated on the progress made by way of an information paper in December 2013 and reports of the Hong Kong Economic and Trade Office in Geneva at the Panel meetings on 21 October 2014 and 20 October 2015. The implications of GPA on local employment were also discussed by the Panel on Manpower at its meeting on 17 November 2005. Major views and concerns expressed by members of the two Panels are summarized below.

DDA negotiations

15. Since the success of the Doha Round of trade negotiations would bring about tariff reduction in domestic exports which had multiplying beneficial effect for business and employment opportunities in Hong Kong, members of CI Panel called on the Administration to step up its efforts as a middleman between opposing groups of WTO Members so as to facilitate the successful conclusion of the DDA negotiations.

⁴ The General Agreement on Trade in Services under the WTO is the first multilateral, legally-enforceable agreement governing international trade in services.

16. The Administration pointed out that the success or otherwise of the negotiations lied in the key players making compromise on agricultural market access and domestic farm support, as well as developing economies demonstrating a willingness to open their markets further to imports of services and industrial goods. The Administration undertook to continue to monitor closely the relevant developments, participate constructively in the negotiations, and play a more pro-active role in Hong Kong's priority areas, namely services and rules, with a view to achieving a successful conclusion of the negotiations.

17. At the meeting of CI Panel on 20 October 2015, some members noted that given the slow progress of the DDA negotiations, there appeared to be a trend for countries to forge bilateral and plurilateral agreements outside the WTO framework in the recent decade, such as the Trans-Pacific Partnership⁵ and the Transatlantic Trade and Investment Partnership⁶ between the United States and the European Union. Members were concerned that these regional and bilateral trade agreements would create trading blocs that set out discriminatory trade rules against non-contracting countries, thereby posing a threat to the WTO and undermining the multilateral trading system.

18. The Administration advised that WTO agreements were effective in facilitating world trade given that they were multilateral agreements applicable to all WTO Members, providing measures to assist developing and the least developed countries to access to the world market. As WTO Members remained supportive of the multilateral trading system of the WTO, the Administration considered that bilateral and plurilateral agreements forged by WTO Members outside the WTO framework could not replace the WTO's multilateral agreements and would not undermine the importance of the WTO.

WTO agreements in respect of trade in goods and services

19. Some CI Panel members were concerned whether the WTO agreements on trade in services would lead to the privatization or outsourcing of public services, thereby affecting the job security of civil servants or employees engaged for the provision of such services. The Administration advised that the GATS did not apply to public services which were not provided on a commercial basis or in competition with one or more service suppliers.

⁵ The Trans-Pacific Partnership ("TPP") is a comprehensive regional trade agreement concluded on 5 October 2015. Comprising 12 countries, namely Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, the United States and Vietnam, the TPP covers about 36% of the world's GDP and 25% of global trade.

⁶ The Transatlantic Trade and Investment Partnership is a proposed free trade agreement between the European Union and the United States which is still under negotiation. It aims at removing trade barriers in a wide range of economic sectors to make it easier to trade goods and services and invest between the two.

Moreover, GATS did not require the privatization or outsourcing of any governmental services. The Administration also assured members that it would continue to exercise prudence in formulating offers under WTO services negotiations having regard to Hong Kong's economic and social conditions.

Agreement on Government Procurement

20. Some members of the CI Panel queried whether Hong Kong's accession to the GPA would disadvantage local suppliers in bidding for government procurement contracts. Members of the Panel on Manpower also expressed concern about the negative impact of the GPA on local employment as many GPA parties had imposed additional requirements, such as those on environmental protection, to protect local employment. Some members were of the view that Hong Kong should withdraw from GPA. The Panel on Manpower, at its meeting on 17 November 2005, passed a motion urging the Administration to conduct a comprehensive review of the Government's procurement policy under GPA and impose a requirement that priority be given to safeguarding the employment opportunities for local workers in the procurement of goods and services; or otherwise to withdraw from GPA.

21. The Administration explained that joining GPA was consistent with the Government's free trade and fair competition policy. Under the GPA, Hong Kong suppliers could compete on an equal footing with other suppliers in bidding for government contracts of other GPA members. Given that many of the GPA parties were the major trading partners of Hong Kong and GPA provided non-discriminatory access for Hong Kong to these markets, withdrawing from GPA would adversely affect the image of Hong Kong and might result in other GPA parties imposing discriminatory measures against Hong Kong suppliers.

Council question

22. At the Council meeting of 18 May 2011, Hon Jeffrey LAM raised a written question enquiring about the Government's plan and alternative means to be pursued to protect Hong Kong's global trade interests in the event of a collapse of the Doha Round of trade negotiations. The Administration advised that Hong Kong continued to play a bridging role in taking forward the negotiations. In parallel with the Doha Round negotiations, Hong Kong had been actively pursuing other trade initiatives that would enhance and secure access to other markets. In this connection, Hong Kong had been pursuing with other economies Free Trade Agreements that go beyond the commitments under the WTO to strengthen economic relations with trading partners and promote global trade liberalization. The hyperlink of the relevant question and the Administration's reply is given in the Appendix.

Latest position

23. The Administration will brief the Panel on 17 November 2015 on the progress of the negotiations in relation to the DDA of the WTO and on plurilateral trade agreements relevant to Hong Kong.

Relevant papers

24. A list of relevant papers is in the **Appendix**.

Council Business Division 1
Legislative Council Secretariat
13 November 2015

List of relevant papers

Date of meeting	Meeting	Minutes/Paper
17/11/2005	Panel on Manpower	<p>Administration's paper on "Implications of the World Trade Organization Agreement on Government Procurement on Local Employment" (LC Paper No. CB(2)356/05-06(03))</p> <p>Follow-up paper (LC Paper No. CB(2)994/05-06(01))</p> <p>Minutes of meeting (LC Paper No. CB(2)654/05-06)</p>
17/1/2006	Panel on Commerce and Industry	<p>Administration's paper on "Background Note on Hong Kong, China's Participation in the World Trade Organization" (LC Paper No. CB(1)683/05-06(04))</p> <p>Follow-up paper on "The World Trade Organization Services Negotiations and Public Services" (LC Paper No. CB(1)914/05-06(01))</p> <p>Minutes of meeting (LC Paper No. CB(1)905/05-06)</p>
13/2/2007	Panel on Commerce and Industry	<p>Administration's paper on "Progress of the World Trade Organization Doha Development Agenda Negotiations" (LC Paper No. CB(1)905/06-07(03))</p> <p>Minutes of meeting (LC Paper No. CB(1)1089/06-07)</p>

Date of meeting	Meeting	Minutes/Paper
18/5/2011	Council meeting	Question No. 8 on "World Trade Organization Doha Round of Multilateral Trade Negotiations" raised by Hon Jeffrey LAM (Hansard) (Page 10471-10473)
30/12/2013 (Paper date)	Panel on Commerce and Industry	Administration's information paper on "Progress of Negotiations under World Trade Organization" (LC Paper No. CB(1)691/13-14(01))
21/10/2014	Panel on Commerce and Industry	Administration's paper on "Reports on the work of the overseas Hong Kong Economic and Trade Offices" (LC Paper No. CB(1)53/14-15(03))
20/10/2015	Panel on Commerce and Industry	Administration's paper on "Reports on the work of the overseas Hong Kong Economic and Trade Offices" (LC Paper No. CB(1)15/15-16(03))