

立法會
Legislative Council

LC Paper No. CB(1)406/18-19(06)

Ref : CB1/PL/CI

Panel on Commerce and Industry

Meeting on 15 January 2019

**Background brief on
Hong Kong's participation in the World Trade Organization and
other international and regional fora**

Purpose

This paper provides background information on Hong Kong's participation in the World Trade Organization ("WTO"), international and regional fora including the Asia-Pacific Economic Cooperation ("APEC") and Organisation for Economic Co-operation and Development ("OECD"), and other plurilateral and bilateral trade initiatives including free trade agreements ("FTAs") and investment agreements. This paper also summarizes the views and concerns raised by members of the Panel on Commerce and Industry ("the Panel") on relevant issues.

Background

Trade policy of Hong Kong

2. As a free port, Hong Kong pursues a free trade policy and does not maintain barriers on trade. No tariff is charged on import or export of goods. Although licensing is required for the import and export of some goods, this is only to fulfill obligations undertaken by Hong Kong to its trading partners, or to meet public health, safety or internal security needs. Through participating in multilateral, regional, plurilateral and bilateral trade agreements, Hong Kong secures, maintains and improves access to foreign markets for its goods and services.

3. The Hong Kong Special Administrative Region Government ("HKSARG") adopts a multipronged strategy to leverage the advantages under "one country, two systems" and the unique status on external, economic and trade relations conferred

on Hong Kong by the Basic Law ("BL"),¹ thereby further strengthening Hong Kong's economic and trade position. HKSARG continues to establish stronger bilateral ties with like-minded trading partners and deepen Hong Kong's economic integration with different parts of the world through negotiating and forging FTAs and investment agreements.

World Trade Organization

4. WTO² is the only international body dealing with the rules of trade among states and separate customs territories. The WTO agreements provide the legal ground-rules for international commerce, binding governments to conduct their trade and trade policies according to the principles and rules. Although negotiated and signed by governments, the goal is to help producers and providers of goods and services, exporters and importers conduct their business.

5. The main objective of WTO is to help trade flow smoothly, freely, fairly and predictably. WTO removes trade barriers and eliminates discriminatory treatment in international trade through successive multilateral trade negotiations; provides a fair, predictable and open rule-based trading system through overseeing the implementation of multilateral trade rules and enforcing legally binding obligations; provides a mechanism for settling trade disputes; and integrates developing and least developed economies into the world trading system. WTO currently has 164 members, accounting for over 95% of world trade.

Hong Kong's participation in the World Trade Organization

6. Hong Kong is a founding member of WTO. Hong Kong's participation in WTO is guided by two key objectives, namely (a) to foster progressive global trade liberalization; and (b) to strengthen the rules of the multilateral trading system so as to provide an effective framework to protect Hong Kong against arbitrary and discriminatory actions by the trading partners. The rules-based system embodied in WTO and the dispute settlement mechanism can provide the most effective insurance against trade conflicts and protectionism. As a small and externally oriented economy, a strong and credible multilateral trading system is of great importance to Hong Kong.

¹ Pursuant to Article 151 of the Basic Law, the Hong Kong Special Administrative Region may on its own, using the name "Hong Kong, China", maintain and develop relations and conclude and implement agreements with foreign states and regions and relevant international organizations in the appropriate fields, including the economic, trade, financial and monetary, shipping, communications, tourism, cultural and sports fields.

² The World Trade Organization ("WTO") was established on 1 January 1995, as a result of the Uruguay Round of Multilateral Trade Negotiations concluded in 1994. The predecessor of WTO is the General Agreement on Tariffs and Trade.

7. As the first WTO Member accepting the Agreement on Trade Facilitation ("TFA"),³ Hong Kong implemented all provisions in Section I of TFA upon its entry into force on 22 February 2017 and has also established a coordinating mechanism, involving 10 government bureaux and departments, to oversee and facilitate the coordination and implementation of TFA.

8. Hong Kong participates actively in the work of WTO on all levels. HKSARG's representatives have taken up various positions in WTO bodies. The Secretary for Commerce and Economic Development was one of the three Vice-chairs of the Eleventh Ministerial Conference.⁴ Prior to the Conference, HKSARG was actively engaged in the discussions on domestic regulation on trade in services, e-commerce, Investment Facilitation for Development and Micro, Small and Medium-sized Enterprises.

Asia-Pacific Economic Cooperation

9. APEC is a regional economic forum established in 1989 to leverage the growing interdependence of the Asia-Pacific. Its 21 members aim to create greater prosperity for the people of the region by promoting balanced, inclusive, sustainable, innovative and secure growth and by accelerating regional economic integration. It operates on the basis of non-binding commitments, open dialogue and equal respect for the views of all participants, and requires no treaty obligations of its members. Decisions made within APEC are reached by consensus, and commitments are undertaken on a voluntary basis.

10. Hong Kong was admitted to APEC in 1991. Trade between Hong Kong and other APEC member economies accounts for some 80% of Hong Kong's external trade value.

Free Trade Area of the Asia Pacific

11. The eventual realization of a Free Trade Area of the Asia-Pacific ("FTAAP") is a key initiative being advanced by APEC. It is expected that FTAAP would liberalize trade in goods and services, address next generation trade and investment issues, and minimize any negative effects resulting from the proliferation of regional and bilateral trade agreements by building on current and developing regional architectures. In November 2016, APEC Leaders endorsed,

³ The Agreement on Trade Facilitation contains provisions on expediting the movement, release and clearance of goods, as well as on cooperation between customs and relevant authorities. It seeks to make cross border trade in goods easier, reduce costs and improve efficiency in doing business under a more transparent and predictable trading environment.

⁴ The Ministerial Conference is the highest decision-making body of WTO. It brings together all members of WTO and makes decisions on all matters under the multilateral trade agreements.

in the form of The Lima Declaration on the FTAAP,⁵ the recommendations of a collective strategy study on issues related to the realization of FTAAP which set out the way forward towards the eventual realization of FTAAP.

12. HKSARG has been closely monitoring the development of regional FTAs, including the Regional Comprehensive Economic Partnership ("RCEP") which is one of the potential pathways to realize FTAAP, and plans to seek accession to RCEP after completion of negotiations by the Association of South East Asian Nations ("ASEAN") with relevant economies, in accordance with the terms on accession of new members therein. The combined gross domestic product of the 16 RCEP members⁶ represents nearly one third of the world's total. Joining RCEP will enable Hong Kong to become a part of the largest FTA in the Pan-Asia region.

Organisation for Economic Co-operation and Development

13. OECD's mission is to promote policies that will improve the economic and social well-being of people around the world. OECD now has a total of 36 members.

14. Hong Kong has been an observer (renamed as Participant since October 2012) to OECD's Trade Committee and the Committee on Financial Markets since 1994 and 1995 respectively. Besides attending meetings of the Trade Committee and its Working Party, Hong Kong participates in the Trade Session of the annual OECD Ministerial Council Meeting. The research and studies undertaken by OECD provide Hong Kong with sound and analytical bases for policy formulation and a useful platform for sharing information and views on evolving trade issues.

Free trade agreements

15. The signing of FTAs with trading partners helps secure favourable conditions for exports of goods and services from Hong Kong to the Mainland and international markets. Taking the FTA between Hong Kong and ASEAN ("HK-ASEAN FTA") as an example, on trade in goods, it benefits Hong Kong enterprises in export trade from the elimination/reduction of customs duties on goods originating from Hong Kong. As regards trade in services, the FTA opens the doors of markets for Hong Kong's services sectors by removing/reducing various restrictions, including on types of legal entity, foreign capital participation, etc.

⁵ See Annex A to the Administration's paper (LC Paper No. CB(1)311/16-17(05)), which was discussed at the meeting of the Panel on Commerce and Industry on 20 December 2016, for The Lima Declaration on Free Trade Area of the Asia Pacific.

⁶ The 16 members include the 10 member states of the Association of South East Asian Nations ("ASEAN") (i.e. Brunei Darussalam, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Vietnam), Australia, India, Japan, Korea, the Mainland and New Zealand.

16. Hong Kong has so far forged seven FTAs⁷ and HKSARG has concluded the FTA negotiations with Maldives and Australia. In addition to exploring to forge an FTA with the four members of the Pacific Alliance, namely Chile, Colombia, Mexico and Peru, the Administration has been exploring with the United Kingdom ("the UK") options for forging closer economic ties, including the possibility of a future FTA.

Investment agreements

17. Investment agreements give additional assurance to overseas investors that their investments in Hong Kong are protected, and enable Hong Kong investors to enjoy similar protection in respect of their investments overseas. A typical investment agreement provides for:

- (a) fair and equitable treatment of investments;
- (b) full protection and security of investments;
- (c) non-discriminatory treatment of investments;
- (d) non-discriminatory treatment in compensation for losses owing to, among others, war or other armed conflict;
- (e) compensation for expropriation of investments;
- (f) free transfer abroad of investments and returns;
- (g) settlement of investment disputes between a contracting party and an investor of another contracting party; and
- (h) settlement of disputes between the contracting parties on interpretation or application of the agreement, etc.

18. Hong Kong has so far signed 20 investment agreements with foreign economies.⁸ HKSARG has also completed negotiations with Australia, Bahrain, Maldives, Mexico, Myanmar and United Arab Emirates respectively and will arrange for signing of the investment agreements after completion of the required internal procedures by both sides. Currently, negotiations with Russia are underway, and HKSARG will explore the possibility of commencing negotiations

⁷ The five free trade agreements ("FTAs") in force include:

- (a) Mainland and Hong Kong Closer Economic Partnership Arrangement;
- (b) Hong Kong, China - New Zealand Closer Economic Partnership Agreement;
- (c) FTA between Hong Kong, China and the Member States of the European Free Trade Association;
- (d) FTA between Hong Kong, China and Chile; and
- (e) Hong Kong and Macao Closer Economic Partnership Arrangement.

Two FTAs with ASEAN and Georgia have also been signed respectively.

⁸ Partners to the 18 investment agreements in force include Australia, Austria, Belgo-Luxembourg Economic Union, Canada, Denmark, Finland, France, Germany, Italy, Japan, Republic of Korea, Kuwait, Netherlands, New Zealand, Sweden, Switzerland, Thailand, and United Kingdom. Besides, the Hong Kong Special Administrative Region Government has also signed investment agreements with Chile and ASEAN respectively.

with Turkey.

Previous discussions by the Panel on Commerce and Industry

19. The Panel was briefed on the significance of HK-ASEAN FTA and the related Investment Agreement on 19 December 2017. Panel members discussed the related issues at the panel meeting on 21 November 2017 and the policy briefing-cum-meeting on 16 October 2018. The major views and concerns expressed by members are summarized in the ensuing paragraphs.

Expansion of the network of free trade agreements and investment agreements

20. At the meeting on 16 October 2018, members enquired about the Administration's strategy in choosing which countries to forge strategic alliances, and whether regional trade partners would be given priority in this respect.

21. The Administration advised that, in identifying potential FTA partners, it had taken into account factors such as the economies' existing trade relations with Hong Kong and the potential for deepening Hong Kong's regional economic integration. The Administration observed that the rise of protectionism had also reinforced the resolve of the international community to pursue further trade liberalization by forging bilateral or plurilateral trade agreements that were built on commitments made in the WTO. The negotiations of RCEP among 10 ASEAN Member States ("AMS") and ASEAN's six FTA partners, and negotiations of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership among 11 economies in the Asia-Pacific region were two salient examples of such plurilateral negotiations.

22. At the meeting on 21 November 2017, members sought details of the progress of the strategic dialogue with the UK Government in preparation for Brexit. The Administration advised that Hong Kong's strategic dialogue with the UK Government would cover as many aspects as possible, and would adopt an open attitude towards the possibility of signing other regional or plurilateral trade agreements on the condition that they were consistent with WTO rules.

23. At the meeting on 19 December 2017, members sought clarification on whether FTA and other trade agreements signed by the Mainland with other countries would automatically apply to Hong Kong Special Administrative Region ("HKSAR"). The Administration advised that pursuant to BL 151, HKSAR might on its own, using the name "Hong Kong, China", maintain and develop relations and conclude and implement agreements with foreign states and regions and relevant international organizations in the appropriate fields, including the economic, trade, financial and monetary, shipping, communications, tourism, cultural and sports fields. As such, HKSAR could negotiate and forge such agreements on its own right, the terms and conditions of which would suit Hong Kong's unique needs and circumstances and would not be the same as those of the

Mainland.

Free Trade Agreement and Investment Agreement between Hong Kong and the Association of South East Asian Nations

24. At the same meeting, noting that Hong Kong's trade relations remained relatively alienated with certain AMS such as Myanmar and Indonesia, some members enquired whether the Administration would strive for closer trade relations with Myanmar, and for the relaxation of Indonesia's limitations that top management posts could only be assumed by locals, so that Hong Kong enterprises would be more willing to invest in these countries.

25. The Administration advised that due to the different stages of economic development of the 10 AMS, some of the countries might open up their markets at a slower pace to protect their local businesses. With HK-ASEAN FTA and the related Investment Agreement, Hong Kong enterprises' investment in these countries would be subject to local statutory protection as well as protection under the Investment Agreement. After all, the market access treatment applied by AMS to Hong Kong would not be less favourable than that applied by AMS to other non-AMS.

Economic benefits

26. In response to members' enquiry about the economic benefits to be brought about by the closer ties forged by HK-ASEAN FTA and the related Investment Agreement, the Administration advised that although it would be difficult to quantify the economic gains associated with the two agreements, Hong Kong enterprises engaging in export trade could benefit from the progressive reduction of customs duties. This in turn would result in lower cost and increased market competitiveness.

Publicity

27. Members enquired about the Administration's effort to widely promote to Hong Kong enterprises the business opportunities provided by HK-ASEAN FTA and the related Investment Agreement. The Administration advised that the Trade and Industry Department ("TID") had been organizing roadshows and briefings to chambers of commerce and other trade and industry organizations in Hong Kong since November 2017. TID also provided in its website sector-specific and commodity-specific information on HK-ASEAN FTA. The Commerce and Economic Development Bureau would collaborate with Hong Kong Trade Development Council, major chambers of commerce and professional bodies to organize more business and trade missions to AMS in future.

Council questions

28. At the Council meeting of 15 February 2017, Hon CHAN Chun-ying asked a written question about the possible impact of the successful establishment of FTAAP on Hong Kong's overall economy. The Administration advised that a study of APEC showed that advancing towards FTAAP would accelerate regional economic integration and enhance trade and investment growth through removal of trade barriers, thus driving long-term economic development. Besides, the 16 RCEP participating economies were also important trading partners of Hong Kong. The Administration would work closely with APEC member economies and participate actively in the relevant work plans of APEC so as to facilitate the early realization of FTAAP. Hong Kong would continue to exchange views with its trading partners on the development of regional FTAs on different occasions and platforms.

29. At the Council meeting of 28 February 2018, Hon Jeffrey LAM asked a written question about the details and implementation timetable for the economic and technical ("ecotech") cooperation activities as stated in HK-ASEAN FTA.⁹ The Administration advised that the ecotech projects included capacity building or technical assistance programmes for an initial period of five years, which might be conducted in the form of experience sharing seminars, thematic symposiums, exhibitions and networking events, etc. The Administration would work out details of the projects with AMS upon the entry into force of HK-ASEAN FTA.

Latest position

30. The Administration will brief the Panel on 15 January 2019 on Hong Kong's participation in the discussions at multilateral and regional fora on trade facilitation initiatives.

Relevant papers

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

Council Business Division 1
Legislative Council Secretariat
10 January 2019

⁹ Under the FTA between Hong Kong and ASEAN, both sides agreed to conduct economic and technical cooperation activities in five priority areas, namely, customs cooperation, professional services, small and medium enterprises cooperation, trade facilitation/logistics and e-commerce cooperation.

List of relevant papers

Date of meeting	Meeting	Paper
20/12/2016	Panel on Commerce and Industry	<p>Administration's paper on "Plurilateral Initiatives for Promoting Trade - Free Trade Area of the Asia Pacific and Global Data Standards under Asia-Pacific Economic Cooperation" (LC Paper No. CB(1)311/16-17(05))</p> <p>Updated background brief on the plurilateral initiatives for promoting trade prepared by the Legislative Council Secretariat (LC Paper No. CB(1)311/16-17(06))</p> <p>Minutes of meeting (LC Paper No. CB(1)462/16-17)</p>
15/2/2017	Council	<p>Question No. 10 on "Promotion of free trade and economic development of Hong Kong" raised by Hon CHAN Chun-ying (Hansard) (page 3671 – 3674)</p>
19/12/2017	Panel on Commerce and Industry	<p>Administration's paper on "Free Trade Agreement between Hong Kong and the Association of Southeast Asian Nations" (LC Paper No. CB(1)340/17-18(03))</p> <p>Background brief on the Free Trade Agreement between Hong Kong and the Association of Southeast Asian Nations prepared by the Legislative Council Secretariat (LC Paper No. CB(1)340/17-18(04))</p> <p>Minutes of meeting (LC Paper No. CB(1)605/17-18)</p>
28/2/2018	Council	<p>Question No. 2 on "Free Trade Agreement between Hong Kong and the Association of Southeast Asian Nations" raised by Hon Jeffrey LAM (Hansard) (page 7101 – 7105)</p>