

**Hong Kong, China's Services Commitments
under the World Trade Organisation (WTO)
General Agreement on Trade in Services (GATS)**

Explanatory notes:

- For the purpose of the GATS, trade in services is defined as the supply of services through any of the following four modes:
 - (a) ***cross border supply (mode 1)***: from the territory of one Member into the territory of any other Member. The service is supplied overseas, but neither the consumer moves nor the supplier establishes itself abroad (e.g. banking or architectural services transmitted via telecommunications or mail);
 - (b) ***consumption abroad (mode 2)***: in the territory of one Member to the service consumer of any other Member (e.g. outbound tourism);
 - (c) ***commercial presence (mode 3)***: by a service supplier of one Member, through commercial presence in the territory of any other Member (e.g. domestic subsidiaries of foreign insurance companies or hotel chains); and
 - (d) ***movement of natural persons (mode 4)***: by a service supplier of one Member, through presence of natural persons of a Member in the territory of any other Member (e.g. employment overseas).
- The specific commitments undertaken by each WTO Member are specified in its consolidated schedule of specific commitments. Such schedule sets out the Member's commitments on ***Market Access*** and ***National Treatment*** in respect of services sectors where commitments have been made.
- ***Market access*** is a negotiated commitment to lock in a minimum level of access to a Member's market in specified sectors. Commitment to market access are presented in the form of limitations, e.g. limitations may be imposed on the number of services suppliers, service operations or employees in the sector; the value of transactions; the legal form of the service supplier; or the participation of foreign capital. Except for conditions or limitations listed in its own schedule, a Member should not maintain any market access restrictions for services sectors that it has undertaken commitments.
- ***National Treatment*** requires each Member to treat the services and service suppliers of any other Member "*no less favourable than it treats its own like services and service suppliers*". A commitment to national treatment implies that the Member concerned does not operate discriminatory measures benefiting domestic services or service suppliers. The national treatment commitment in any particular sector may be made subject to conditions and limitations listed in Member's schedule.

- This document sets out in general Hong Kong, China's existing commitments made under the GATS which became effective when the GATS came into force on 1 January 1995.

I. HORIZONTAL COMMITMENTS

All Sectors Included in HKC's Schedule of Specific commitments

Cross-border supply, consumption abroad and commercial presence

- *Existing commitment:* No market access or national treatment limitations in the cross border, consumption abroad and commercial presence modes of supply other than those specified in the relevant sectors below.

Presence of natural persons

(Coverage: intra-corporate transfer of general managers, senior managers and specialists in the following sectors: business services (accounting, auditing and bookkeeping services; taxation services; computer and related services; advertising services; management consulting services), telecommunication services, financial services and maritime transport services (international transport & rental of vessels with crew))

- *Existing commitment:* Entry and temporary stay subject to conditions met. Prior approval is required. Temporary stay limited to one year for the first entry and may be extended up to a total of five years.
- *No existing commitment* for other categories of natural persons.

II. SECTOR-SPECIFIC COMMITMENTS

1. BUSINESS SERVICES

(a) Professional Services

Accounting, auditing and bookkeeping services

(Coverage: auditing and advisory services on matters such as financial management consultancy, company formation and restructuring, raising of capital, debt-rescheduling, receivership and liquidation)

- *Existing commitment:* No market access limitations in the consumption abroad and commercial presence modes of supply, but for the commercial presence mode of supply, the provision of statutory auditing services is limited to natural persons licensed as certified public accountants (practising) either as sole proprietors or in partnership. No national treatment limitations in the commercial presence mode of supply.
- *No existing commitment* on market access and national treatment in the cross border mode of supply; and national treatment in the consumption abroad mode of supply.

Taxation services

(Coverage: excluding legal services and limited to advisory and consulting services on compilation of tax returns, tax planning, review, assessment and back-duty work)

- *Existing commitment:* No market access limitations in the consumption abroad and commercial presence modes of supply. No national treatment limitations in the commercial presence mode of supply.
- *No existing commitment* on market access and national treatment in the cross border mode of supply; and national treatment in the consumption abroad mode of supply.

(b) Computer and Related Services

(Coverage: consultancy services related to the installation of computer hardware; software implementation services; and data processing and data base services)

- *Existing commitment:* No market access limitations in the cross border, consumption abroad and commercial presence modes of supply. No national treatment limitations in the commercial presence mode of supply.
- *No existing commitment* on national treatment in the cross border and consumption abroad modes of supply.

(c) Real Estate Services

(Coverage: provision, on a fee or contract basis, of management services for residential or commercial buildings)

- *Existing commitment:* No market access limitations in the consumption abroad and commercial presence modes of supply. No national treatment limitations in the commercial presence mode of supply.
- *No existing commitment* on market access and national treatment in the cross border mode of supply; and national treatment in the consumption abroad mode of supply.

(d) Rental/Leasing Services Without Operators

Relating to ships

- *Existing commitment:* No market access limitations in the consumption abroad and commercial presence modes of supply. No national treatment limitations in the commercial presence mode of supply other than that the income derived from international operation of ships registered in the Hong Kong Shipping Register is exempted from Hong Kong's profits tax.
- *No existing commitment* on market access and national treatment in the cross border mode of supply; and national treatment in the consumption abroad mode of supply.

Relating to other transport equipment (excluding services relating to air transport);
and

Relating to other machinery and equipment (excluding transport equipment)

- *Existing commitment:* No market access limitations in the consumption abroad and commercial presence modes of supply. No national treatment limitations in the commercial presence mode of supply.
- *No existing commitment* on market access and national treatment in the cross border mode of supply; and national treatment in the consumption abroad mode of supply.

(e) Other Business Services

Advertising services

(Coverage: creation and placing of advertisements in periodicals, newspapers, radio and television; media representation; distribution and delivery of advertising material)

- *Existing commitment:* No market access limitations in the cross border and consumption abroad and commercial presence modes of supply. No national treatment limitation in the commercial presence mode of supply.
- *No existing commitment* on national treatment in the cross border and consumption abroad modes of supply.

Market research and public opinion polling services

(Coverage: investigation, analysis and advice on collective opinions of the public as well as the collation and presentation of data derived from such investigation and analysis);

Management consulting services

(Coverage: provision of advice and guidance to businesses regarding planning, organisation, efficiency and control, and management information);

Services incidental to agriculture and forestry

(Coverage: provision of advice and guidance relating to crop, livestock and forestry management);

Services incidental to fishing

(Coverage: provision of advice and guidance relating to marine or freshwater fisheries and fish hatchery services);

Maintenance and repair of equipment (not including maritime vessels, aircraft or other transport equipment);

Building cleaning services

(Coverage: cleaning of the interiors of buildings of all types);

Photographic services

(Coverage: commercial and consumer photograph production and processing but exclude motion picture film and television services and processing);

Public relations services

(Coverage: services related to image building and opinion moulding);

Translation services

(Coverage: interpretation of written and spoken languages); and

Exhibition management services

(Coverage: activities relating to planning, organising, managing and marketing services for convention and similar events)

- *Existing commitment:* No market access limitations in the consumption abroad and commercial presence modes of supply. No national treatment limitations in the commercial presence mode of supply.
- *No existing commitment* on market access and national treatment in the cross border mode of supply; and national treatment in the consumption abroad mode of supply.

2. COMMUNICATION SERVICES

(a) Courier Services

(Coverage: provision of services on a fee or contract basis for the delivery of documents and parcels, but excluding services reserved to the Post Office under the Post Office Ordinance)

- *Existing commitment:* No market access limitations in the consumption abroad and commercial presence modes of supply. No national treatment limitations in the commercial presence mode of supply.
- *No existing commitment* on market access and national treatment in the cross border mode of supply; nor on national treatment in the consumption abroad mode of supply.

(b) Telecommunication Services

Local Services

(Coverage: voice services; packet-switched data transmission services; circuit-switched data transmission services; facsimile services; private leased circuit services; and mobile services (mobile radio telephone services including Cellular and Personal Communications Services, mobile data services, and radio paging services))

- *Existing commitment:* No market access limitations in the cross border, consumption abroad and commercial presence modes of supply, but for the commercial presence mode of supply –
 - Chubb Electronics (HK) Ltd has the exclusive right for providing a fire alarm signals between Fire Services Department and public buildings; and
 - Four licences for local fixed network services were issued in 1995. New licences will not be considered before June 1998. Whether more licences will be issued thereafter is subject to review in 1998.

No national treatment limitations in the cross border, consumption abroad and commercial presence modes of supply. Other than market access and national treatment commitments, some additional commitments have undertaken on regulatory principles.

International Services

(Coverage: voice services; packet-switched data transmission services; circuit-switched data transmission services; facsimile services; call back services or alternative calling procedures; self provision of external satellite circuits for certain messages for companies/organisations; virtual private network service, and mobile satellite service)

- *Existing commitment:* No market access limitations in the cross border, consumption abroad and commercial presence modes of supply, except that for the cross border and commercial presence modes of supply –
 - Public external telephone service is not allowed;
 - For self-provision of external satellite circuits, connection to the public switched telephone network (PSTN) at the Hong Kong end may be restricted;
 - For virtual private network service, connection to the PSTN at the Hong Kong end may be restricted; and
 - For mobile satellite service, gateway station for mobile satellite traffic is not allowed.

No national treatment limitations in the cross border, consumption abroad and commercial presence modes of supply.

Value-added Services

(Coverage: public services accessed by its subscribers via, and offered over, circuits provided by public telecommunications transport network services and are limited to electronic mail, on-line information and data base access and retrieval (including data processing or transaction processing), store and forward facsimile services, videotex and teletex, code, protocol and/or format conversion, voice mail and electronic data interchange (only between private companies))

- *Existing commitment:* No market access limitations in the consumption abroad and commercial presence modes of supply, other than that commercial presence must take the form of a company. No national treatment limitations in the commercial presence mode of supply.
- *No existing commitment* on market access and national treatment in the cross border mode of supply; and national treatment in the consumption abroad mode of supply.

(c) Audiovisual Services

(Coverage: motion picture and video tape production and distribution services; sound recording services; and dubbing services)

- *Existing commitment:* No market access limitations in the cross border, consumption abroad and commercial presence modes of supply. No national treatment limitations in the commercial presence mode of supply.
- *No existing commitment* on national treatment in the cross border and consumption abroad modes of supply.

3. CONSTRUCTION AND RELATED ENGINEERING SERVICES

(a) Building Completion and Finishing Work

(Coverage: specialised consulting services related to the post-construction design and fitting out of interior living and working spaces); and

(b) Others

(Coverage: project management services in respect of the supervision and coordination of construction projects, but do not cover engineering or architectural services)

- *Existing commitment*: No market access limitations in the consumption abroad and commercial presence modes of supply. No national treatment limitations in the commercial presence mode of supply.
- *No existing commitment* on market access and national treatment in the cross border mode of supply; and national treatment in the consumption abroad mode of supply.

4. DISTRIBUTION SERVICES

(a) Retailing services

(Coverage: resale of certain new and used consumer goods to the general public which are normally used for final personal or household consumption or utilisation, by department stores, shops, consumer co-operative and auction houses)

- *Existing commitment*: No market access limitations in the consumption abroad and commercial presence modes of supply. No national treatment limitations in the commercial presence mode of supply.
- *No existing commitment* on market access and national treatment in the cross border mode of supply; nor on national treatment in the consumption abroad mode of supply.

5. FINANCIAL SERVICES

(Coverage of commitments: all commitments made with respect to the cross border and consumption abroad modes of supply do not signify a commitment to allow a service supplier from the territory of another Member to solicit business or to conduct marketing in the HKSAR.)

(a) All Insurance and Insurance-related Services

Life, accident and health insurance services; and
Non-life insurance services

- *Existing commitment*: No market access limitations in the consumption abroad and commercial presence modes of supply, other than that –
 - for the consumption abroad mode of supply, statutory insurances which include third party liability in respect of vehicles and vessels and employer's liability insurance in respect of employees must be purchased from an

insurer authorised in HKSAR; and

- for the commercial presence mode of supply, only a company or an association of underwriters is permitted to carry on insurance business. In the case of the former, commercial presence must take the form of a subsidiary, branch or representative office, although insurance business may not be carried out through a representative office.

No national treatment limitations in the commercial presence mode of supply, other than that the chief executive appointed by the authorised insurer should normally reside in HKSAR.

- *No existing commitment* on market access and national treatment in the cross border mode of supply; and national treatment in the consumption abroad mode of supply.

Reinsurance and retrocession

- *Existing commitment:* No market access limitations in the cross border, consumption abroad and commercial presence modes of supply, other than that –
 - for the cross border mode of supply, insurance company has to be a company incorporated outside HKSAR and has no agent nor place of business in HKSAR; and
 - for the commercial presence mode of supply, only a company or an association of underwriters is permitted to carry on insurance business. In the case of the former, commercial presence must take the form of a subsidiary, branch or representative office, although insurance business may not be carried out through a representative office.

No national treatment limitations in the commercial presence mode of supply, other than that the chief executive appointed by the authorised insurer should normally reside in HKSAR.

- *No existing commitment* on national treatment in the cross border and consumption abroad modes of supply.

Services auxiliary to insurance (including broking and agency services)

- *Existing commitment:* No market access limitations in the cross border, consumption abroad and commercial presence modes of supply, but in respect of claim settlement services, commitments in the cross border mode of supply are only limited to settlement of claims under contracts of goods in transit insurance entered into wholly outside HKSAR in respect of goods consigned to HKSAR. No national treatment limitations in the commercial presence mode of supply.
- *No existing commitment* on national treatment in the cross border and consumption abroad modes of supply.

(b) Banking and Other Financial Services (excluding insurance)

Acceptance of deposits and other repayable funds from the public

- *Existing commitment:* No market access limitations in the consumption abroad and commercial presence modes of supply, but for the commercial presence mode of supply, it must take the following forms:
 - Banks incorporated overseas may apply for a licence to operate a full licensed bank or a restricted licence bank in the form of a branch subject to their fulfillment of certain conditions;
 - Limited companies incorporated by overseas banks in HKSAR may apply for a licence to operate as a full licensed bank, restricted licence bank or deposit taking company in the form of a subsidiary with branching rights. In the case of an application for a full banking licence, certain conditions need to be fulfilled by the institution; and
 - Banks incorporated overseas may set up representative offices in HKSAR, but such offices are prohibited from taking deposits and undertaking banking business in general.

No national treatment limitations in the commercial presence mode of supply, other than that all authorised institutions must appoint a chief executive and not less than one alternative chief executive, who must normally reside in HKSAR.

- *No existing commitment* on market access and national treatment in the cross border mode of supply; and national treatment in the consumption abroad mode of supply.

Lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transaction;

All payment and money transmission services; and

Asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial depository and trust services

- *Existing commitment:* No market access limitations in the consumption abroad and commercial presence modes of supply. No national treatment limitations in the commercial presence mode of supply.
- *No existing commitment* on market access and national treatment in the cross border mode of supply, and national treatment in the consumption abroad mode of supply.

Financial leasing;

Guarantees and commitments; and

Provision and transfer of financial information, and financial data processing and related software by providers of other financial services

- *Existing commitment:* No market access limitations in the cross border, consumption abroad and commercial presence modes of supply. No national treatment limitations in the commercial presence mode of supply.
- *No existing commitment* on national treatment in the cross border and consumption abroad modes of supply.

Trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, money market instruments, foreign exchange, derivative products including futures and options, exchange rate and interest rate instruments, and transferable securities

- *Existing commitment:* No market access limitations in the consumption abroad and commercial presence modes of supply, but for the commercial presence of mode of supply –
 - Only corporations incorporated in HKSAR, or natural person born in HKSAR or resident in HKSAR for five of the preceding seven years, or partnerships composed of such persons, may become members of the Stock Exchange of Hong Kong Limited; and
 - Only corporations incorporated in HKSAR may become members of the Hong Kong Futures Exchange.

No national treatment limitations in the commercial presence mode of supply, other than that for dealing in securities or commodities futures, there is a residence requirement in HKSAR in respect of a sole proprietor, or, in the case of a partnership or company, in respect of at least one partner or director, who is registered as a dealer.

- *No existing commitment* on market access and national treatment in the cross border mode of supply, and national treatment in the consumption abroad mode of supply.

Participation in issues of all kinds of securities, including underwriting and placement as agent and provision of services related to such issues

- *Existing commitment:* No market access limitations in the consumption abroad and commercial presence modes of supply. No national treatment limitations in the commercial presence mode of supply, other than that if registration as a dealer is required, as it is in the case of public issues, the limitations as for dealers shall apply.
- *No existing commitment* on market access and national treatment in the cross border mode of supply, and national treatment in the consumption abroad mode of supply.

Advisory and other auxiliary financial services, including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy

- *Existing commitment:* No market access limitations in the cross border, consumption abroad and commercial presence modes of supply, but for the cross border mode of supply, commodity trading and investment advisory services are not included in the commitments. No national treatment limitations in the commercial presence mode of supply.
- *No existing commitment* on national treatment in the cross border and consumption abroad modes of supply.

6. TOURISM AND TRAVEL RELATED SERVICES

(a) Hotel and Restaurants (including Catering)

Hotel services

(Coverage: provision on a fee-basis of short-term lodging and sale of prepared foods and drinks within the hotel premises); and

Restaurant and catering services

(Coverage: sale of prepared foods and drinks through catering or in restaurants both for consumption on and off the premises)

- *Existing commitment:* No market access limitations in the consumption abroad and commercial presence modes of supply. No national treatment limitations in the commercial presence mode of supply.
- *No existing commitment* on market access and national treatment in the cross border mode of supply; and national treatment in the consumption abroad mode of supply.

(b) Travel Agencies and Tour Operator Services

(Coverage: business of obtaining for clients carriage and/or accommodation outside Hong Kong and the provision of related services such as furnishing of travel information, advice and planning)

- *Existing commitment:* No market access limitations in the consumption abroad and commercial presence modes of supply, other than that only a company may operate tours and open branch offices. No national treatment limitations in the commercial presence mode of supply.
- *No existing commitment* on market access and national treatment in the cross border mode of supply; and national treatment in the consumption abroad mode of supply.

7. RECREATIONAL, CULTURAL AND SPORTING SERVICES

(a) Libraries, Archives, Museums and Other Cultural Services

(Coverage: library and archives services)

- *Existing commitment:* No market access limitations in the consumption abroad and commercial presence modes of supply. No national treatment limitations in the commercial presence mode of supply.
- *No existing commitment* on market access and national treatment in the cross border mode of supply; and national treatment in the consumption abroad mode of supply.

8. TRANSPORT SERVICES

(a) Maritime Transport Services

International transport (excluding passenger transport and cabotage transport)

- *Existing commitment:* No market access limitations in the cross border, consumption abroad and commercial presence modes of supply. No national treatment limitations in the commercial presence mode of supply other than that the income derived from international operation of ships registered in the Hong Kong Shipping Register is exempted from Hong Kong's profits tax. Additional commitment to make available certain port services to international transport service suppliers on reasonable and non-discriminatory terms and conditions.
- *No existing commitment* on national treatment in the cross border and the consumption abroad modes of supply.

Maritime Auxiliary Services - Rental of vessel with crew

(Coverage: services of hiring a vessel with crew under charter party terms for a voyage or period of time)

- *Existing commitment:* No market access limitations in the consumption abroad and commercial presence modes of supply. No national treatment limitations in the commercial presence mode of supply other than that the income derived from international operation of ships registered in the Hong Kong Shipping Register is exempted from Hong Kong's profits tax.
- *No existing commitment* on market access and national treatment in the cross border mode of supply; nor on national treatment in the consumption abroad mode of supply.

Maritime cargo handling services

(Coverage: activities exercised by stevedore companies. The activities covered include the organisation and supervision of the loading/discharging of cargo to/from a ship; the lashing/unlashing of cargo, and the reception/delivery and safekeeping of cargoes before shipment or after discharge);

Storage and warehousing services

(Coverage: movement or placing of goods from warehouse to vessels or vice versa);

Customs clearance services

(Coverage: activities consisting of carrying out on behalf of another party customs formalities concerning import, export or through transport of cargoes, whether this service is the main activity of the service provider or a usual complement of its main activity);

Container station and depot services

(Coverage: activities consisting of storing containers, whether in port areas or inland, with a view to their stuffing/stripping, repairing and making them available for shipment);

Maritime agency services

(Coverage: activities consisting of representing, within a given geographic area, as an agent the business interest of one or more shipping lines or shipping companies for marketing and sales of maritime transport and related services and for acting on behalf of the companies organising the call of the ship or taking over cargoes when required); and

Maintenance and repair of vessels

(Coverage: businesses related to maintenance and repair of ocean going vessels at anchor or alongside and maintenance and repair of local vessels)

- *Existing commitment*: No market access limitations in the consumption abroad and commercial presence modes of supply. No national treatment limitations in the commercial presence mode of supply.
- *No existing commitment* on market access and national treatment in the cross border mode of supply; nor on national treatment in the consumption abroad mode of supply.

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