

LEGISLATIVE COUNCIL BRIEF

FREE TRADE AGREEMENT BETWEEN HONG KONG AND THE ASSOCIATION OF SOUTHEAST ASIAN NATIONS

INTRODUCTION

At the meeting of the Executive Council on 22 August 2017, the Council ADVISED and the Acting Chief Executive ORDERED that the outcomes of the negotiations of the Free Trade Agreement (FTA) and the Investment Agreement with the Association of Southeast Asian Nations (ASEAN)⁽¹⁾ should be endorsed and the FTA and the Investment Agreement with ASEAN should be signed.

JUSTIFICATIONS

Key Outcomes of the Negotiations

2. The FTA and the Investment Agreement are comprehensive in scope and the commitments therein are of value. Key outcomes of the negotiations and expected benefits to Hong Kong are summarised in paragraphs 3 to 14 below.

(A) Trade in Services

3. We have achieved a balanced outcome on trade in services, building on both sides' commitments under the World Trade Organization (WTO) General Agreement on Trade in Services. Hong Kong service providers will enjoy legal certainty in market access and national treatment for a comprehensive range of services in the ASEAN markets under the four modes of supply, namely cross-border supply, consumption abroad, commercial presence, and movement of natural persons.

4. On market access, in line with the established practice of ASEAN's past FTAs, each party to the FTA (i.e. Hong Kong and ten individual ASEAN Member States (MSS)) has its own schedule of

⁽¹⁾ ASEAN comprises Brunei Darussalam, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Viet Nam.

specific commitments which is made applicable to all other parties.

5. Most ASEAN MSS, in particular those more advanced among them, made commitments exceeding those under the WTO (i.e. WTO-plus) in respect of individual modes of supply of services. They encompass sectors where Hong Kong has traditional strengths or potential for development. Hong Kong's commitments to ASEAN cover a wide range of services. Some of the commitments made are WTO-plus.

6. Apart from market access commitments, the two sides have agreed on other general obligations to facilitate trade in services. In particular, the WTO-plus rules and disciplines developed under the FTA will improve transparency of domestic regulations and make authorities more responsive to applicants applying for licences or authorisation.

(B) Trade in Goods

7. ASEAN MSS have agreed to reduce their customs duties on goods originating from Hong Kong. Hong Kong commits to binding its existing zero import tariff regime for all goods originating from ASEAN MSS when the FTA takes effect.

8. For the purpose of ASEAN MSS affording preferential tariff treatment to goods of Hong Kong origin, the two sides have formulated a set of preferential rules of origin. To enable Hong Kong traders to apply the rules of origin agreed in the FTA, the Secretary for Commerce and Economic Development will add the FTA to Schedule 1 of the Trade Descriptions Ordinance (Cap. 362) by notice published in gazette.

9. Hong Kong and ASEAN will strengthen co-operation and enhance transparency in the areas of sanitary and phytosanitary measures⁽²⁾ as well as technical barriers to trade⁽³⁾. Both sides will also simplify and harmonise customs procedures, and promote co-operation between their customs administrations.

⁽²⁾ Sanitary and phytosanitary measures are any measures applied (a) to protect human or animal life or health from risks arising from additives, contaminants, toxins or disease-causing organisms in their food; (b) to protect human life or health from plant- or animal-carried diseases or pests; (c) to protect animal or plant life or health from pests, diseases, disease-carrying organisms or disease-causing organisms; and (d) to prevent or limit other damage from the entry, establishment or spread of pests.

⁽³⁾ Technical barriers to trade include technical regulations, standards and conformity assessment procedures that may directly or indirectly affect trade in goods.

(C) Investment

10. The Investment Agreement under the FTA represents a balanced outcome. It contains provisions on, among others, investment protection, promotion and facilitation. It complements the FTA's chapter on Trade in Services, and the commitments agreed are WTO-plus.

(D) Other Areas

11. The FTA comprises a chapter on Economic and Technical Co-operation (ECOTECH). The ECOTECH chapter aims to enhance the benefits of the FTA to ASEAN and Hong Kong through capacity building programmes and technical assistance. Besides, the FTA also contains provisions to promote and strengthen co-operation in the area of intellectual property rights.

Economic and Strategic Value of the FTA

12. ASEAN is a very important trading partner of Hong Kong. It was Hong Kong's second⁽⁴⁾ largest trading partner in merchandise trade in 2016 and the fourth largest in services trade in 2015. Many of the individual ASEAN MSS are key trading partners of Hong Kong. The FTA will help further enhance trade and investment flows between Hong Kong and ASEAN, thus benefitting our economy.

13. Specifically on trade in goods, among the ten ASEAN MSS, four were Hong Kong's top ten destinations for domestic exports in 2016. They were Singapore (the third), Viet Nam (the fourth), Malaysia (the seventh) and Thailand (the tenth).

14. The FTA and the Investment Agreement will extend Hong Kong's FTA and Investment Promotion and Protection Agreement network to cover all major economies in Southeast Asia. Besides, all ASEAN MSS are economies along the Belt and Road. The closer ties forged by the FTA will enhance Hong Kong's role as a hub between the Mainland and our overseas trading partners.

BASIC LAW IMPLICATIONS

15. The proposal is in conformity with the Basic Law, including the provisions concerning human rights.

⁽⁴⁾ Both ASEAN and the European Union are counted as single entities in the rankings in this paragraph.

FINANCIAL AND CIVIL SERVICE IMPLICATIONS

16. For the implementation of capacity building and technical assistance programmes under the ECOTECH chapter of the FTA, Hong Kong will contribute up to HK\$5 million per year for the initial five years⁽⁵⁾. Apart from funding, in-kind contributions may be contributed by ASEAN as well as Hong Kong, depending on the nature of ECOTECH activities.

ECONOMIC IMPLICATIONS

17. Signing the FTA with ASEAN has positive economic implications for Hong Kong as it will help foster closer economic ties between the two places. In broad terms, the FTA will provide Hong Kong with better access to the ASEAN markets which are located along the Belt and Road, and create more business opportunities beneficial to Hong Kong's long-term economic growth. It will also help strengthen Hong Kong's role as an international trade, commerce and financial centre.

SUSTAINABILITY IMPLICATIONS

18. The FTA with ASEAN will bring more and better access to the ASEAN markets, create more business opportunities for Hong Kong businessmen and help increase trade and investment flows between Hong Kong and the ASEAN MSS. This will in turn bring benefits to other trade related sectors. Enhancing our economic links with the ASEAN economies will help reinforce Hong Kong's position as an international trade, economic and financial hub.

LEGISLATIVE IMPLICATIONS

19. Implementation of the FTA would require legislative amendments as set out in paragraph 8 above.

PUBLIC CONSULTATION

20. We conducted a public consultation exercise for over one month on the proposed FTA negotiations between Hong Kong and ASEAN from late May to early July 2014 to help develop our negotiation positions and

⁽⁵⁾ As far as we understand, ASEAN's FTA partners in general will make financial contributions to implement ECOTECH activities upon signing of the Agreement.

better gauge the local business community's areas of interest. We sought views from major trade and industrial associations, professional bodies and the general public, and their feedback was positive.

PUBLICITY

21. Hong Kong and ASEAN have agreed to announce conclusion of the FTA negotiations in September 2017, and hold the signing ceremony in November 2017. We will issue a press release when the conclusion is announced. A spokesperson will be available to answer media enquiries.

BACKGROUND

22. The FTA negotiations commenced in July 2014 and were concluded in July 2017. The FTA will become effective after completion of the necessary procedures.

23. The total merchandise trade between Hong Kong and ASEAN amounted to HK\$833 billion in 2016, and total services trade between the two sides was HK\$121 billion in 2015. As a broad indication, based on our domestic exports to individual ASEAN MSS in 2016, the total tariff Hong Kong paid to individual ASEAN MSS roughly ranged from HK\$265,000 (for Brunei Darussalam) to HK\$209 million (for Viet Nam)⁽⁶⁾. On investment, as at the end of 2015, ASEAN ranked sixth⁽⁷⁾ among Hong Kong's destinations of outward direct investment, with a stock of HK\$218 billion, and it ranked sixth among Hong Kong's sources of inward direct investment, with a stock of HK\$555 billion.

ENQUIRIES

24. For enquiries, please contact Mr Owin Fung, Assistant Director-General of Trade and Industry, at 2398 5309.

Trade and Industry Department
9 September 2017

⁽⁶⁾ As a broad indication, the estimated total tariff Hong Kong paid to ASEAN was roughly HK\$574 million.

⁽⁷⁾ Both ASEAN and the European Union are counted as single entities in the rankings in this paragraph.