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LEGISLATIVE COUNCIL BRIEF

PROPOSED FREE TRADE AGREEMENT BETWEEN HONG KONG AND CHILE

INTRODUCTION

At the meeting of the Executive Council on 29 November 2011, the Council ADVISED and the Chief Executive ORDERED that Hong Kong should commence negotiations on a Free Trade Agreement (FTA) with Chile on the basis of the elements as set out in paragraph 10 below.

JUSTIFICATIONS

Hong Kong's FTA Policy

2. The Executive Council advised and the Chief Executive ordered in 2000 that while maintaining our commitment to the primacy of the multilateral trading system and the World Trade Organization (WTO), we should adopt a more flexible approach and be prepared to conclude bilateral and regional FTAs with our trading partners. In the 2006 – 2007 Policy Address, the Chief Executive announced that “in response to new trends in world trade, we will seek to enter into more economic and trade arrangements with our trading partners, so our goods and services can gain access to overseas markets under more favourable conditions”.

Potential benefits of an FTA with Chile

3. In July 2009, Hong Kong and Chile completed a Joint Feasibility Study (JFS) on the possibility of commencing FTA

negotiations⁽¹⁾. The study concluded that the enhancement of the trade and economic relationships between Hong Kong and Chile would have a positive impact on the economic relationship between the two sides.

4. We consider that it is in Hong Kong's interest to negotiate an FTA with Chile to exploit the untapped business opportunities and potential in this new emerging market, and also the opportunities it provides as a gateway to the South American region. Among the South and Central American economies, Chile ranked 5th in GDP in 2010, but 2nd in trade in goods and 3rd in trade in services. While the South and Central American economies took up about 6% of world GDP, their share of world trade in goods and in services were only around 3.4 - 3.8%. This suggests that the South American region is still under-explored with latent potential for more trade in goods and services.

5. Bilateral trade of Hong Kong and Chile has been growing steadily. On trade in goods, Chile ranked 29^{th(2)} among Hong Kong's worldwide trading partners and 4th among those in Central and South Americas in 2010. Bilateral trade in goods between the two economies amounted to HK\$6,061 million in 2010, representing an average annual growth rate of 7.5% when compared with 2004.

6. On trade in services, Chile ranked 34^{th(2)} among Hong Kong's worldwide trading partners and 5th among those in Central and South Americas in 2009. Bilateral trade in services between Chile and Hong Kong amounted to HK\$573 million in 2009, enjoying an average annual growth rate of 7.6% when compared with 2003. The growing trend suggests that there should be scope for further enhancement of the economic ties between Hong Kong and Chile. A bilateral FTA will be instrumental in fostering closer economic relationship between the two sides.

7. Both Hong Kong and Chile are free trade advocates and we therefore see good prospect in concluding an ambitious and high-quality FTA with Chile. On trade in goods, successful reduction of entry restrictions either by cutting tariffs or removing import barriers would be beneficial to Hong Kong. Increased bilateral merchandise trade will also lead to possible expansion of trade in supporting services such as

⁽¹⁾ Conducting a feasibility study is a standard domestic requirement of Chile before it commences formal FTA negotiations with any of its trading partners.

⁽²⁾ The European Union is counted as one single entity for the rankings.

logistics, banking and other merchandising services. On trade in services, we are targeting a comprehensive and ambitious outcome. On this basis, our service industries shall be able to enjoy a higher level of market access commitments beyond the existing level undertaken by Chile under the WTO, as well as more certainty and predictability in entering and operating in the Chilean market. In addition, the rules and disciplines to be developed under the FTA will improve transparency of domestic regulations, enhance certainty and minimise restrictions in conducting business between the two sides. Both sides may also through the FTA enhance cooperation in various areas, such as intellectual property protection and trade facilitation. Better understanding of and access to the markets of both sides and in turn their respective regions would also open up more investment opportunities.

8. Strategically, if we sign an FTA with Chile, we would have expanded our FTA network to the American region, in addition to our existing linkage to the Asia-Pacific and European regions established through our FTAs with Mainland China, New Zealand (NZ) and the Member States of the European Free Trade Association (EFTA Member States)⁽³⁾. It would reinforce the signal to our trading partners of Hong Kong's desire and readiness to forge closer economic partnership through FTAs.

Elements to be covered in the FTA

9. Riding on the conclusions and recommendations of the JFS, the two sides held an exploratory meeting and a video conference in July and October 2011 respectively to discuss the prospect of commencing formal FTA negotiations and their modalities. In general, the two sides shared the common aspiration of pursuing a comprehensive and high-quality FTA.

10. We envisage that negotiations on a Hong Kong/Chile FTA, if commenced, would be comprehensive in scope. The negotiations would cover, among others, the following major areas and related issues –

- (a) removal or reduction of tariffs;
- (b) liberalisation of non-tariff barriers, including technical barriers

⁽³⁾ EFTA Member States comprise Iceland, Liechtenstein, Norway and Switzerland.

to trade, sanitary and phytosanitary measures, anti-dumping, safeguards, and countervailing measures;

- (c) a set of flexible disciplines on rules of origin which would facilitate bilateral trade;
- (d) a set of customs facilitation procedures;
- (e) liberalisation as well as promotion and protection of investment;
- (f) liberalisation of trade in services;
- (g) cooperation in promoting and protecting intellectual property rights; and
- (h) legal and institutional arrangement and dispute settlement mechanism for the FTA.

Besides, Chile also advocates that the FTA with Hong Kong should cover government procurement, labour and environment issues, as well as a chapter on cooperation between the two sides in different areas such as economic development, innovation, research and development, agriculture, small and medium enterprises, and education.

11. Before commencing negotiations, we shall develop our negotiation strategy and wish-lists for the FTA in consultation with relevant Bureaux/Departments (B/Ds), as well as the local business sector and professional bodies.

BASIC LAW IMPLICATIONS

12. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. Negotiation and conclusion of FTAs is within the high degree of autonomy of the Hong Kong Special Administrative Region (HKSAR) as provided for under Article 151 of the Basic Law. The Article provides, inter alia, that the HKSAR may on its own conclude and implement agreements with foreign states in the economic, trade and other appropriate fields.

FINANCIAL AND CIVIL SERVICE IMPLICATIONS

13. The conduct of FTA negotiations with Chile has no financial and civil service implications. We will make use of the existing manpower resources of the Trade and Industry Department to absorb the additional work relating to the negotiations with Chile. As for the implementation of the negotiation outcome, we will assess the implications and consult the Executive Council before concluding an agreement with Chile.

ECONOMIC IMPLICATIONS

14. Generally speaking, FTAs aim at facilitating trade and investment through improving business environment and enhancing market access among the parties to the agreement. The FTA with Chile, if successfully concluded, should provide Hong Kong with better access to the Chilean market which may potentially serve as a gateway to the South American markets, and hence create more business opportunities beneficial to our long-term economic growth. It will also help strengthen Hong Kong's role as an international business and commerce centre.

SUSTAINABILITY IMPLICATIONS

15. In overall terms, the potential FTA with Chile can bring more and better access to the Chilean market, create more business opportunities for Hong Kong businessmen and increase trade and investment flows between Hong Kong and Chile. These would help sustain the economic development of Hong Kong and reinforce Hong Kong's position as an international trade, economic and financial hub.

ENVIRONMENTAL IMPLICATIONS

16. Depending on the substance of the environment provisions to be eventually covered in the proposed FTA with Chile, the FTA may have positive environmental implications for Hong Kong.

PUBLIC CONSULTATION

17. To help develop our negotiation strategy and to better gauge our

traders' areas of interest in the Chilean market, we will consult the Trade and Industry Advisory Board, major trade and industrial associations as well as professional bodies before and, if necessary, in the course of our negotiations with Chile. We will also engage B/Ds in consulting their stakeholders as appropriate during the process.

PUBLICITY

18. A press release will be issued before public consultation. A line-to-take will be prepared and a spokesman will be available to answer media enquiries.

BACKGROUND

19. We have so far signed FTAs with Mainland China, NZ and the EFTA Member States. In 2009, we completed a JFS with Chile on the possibility of commencing FTA negotiations with positive conclusions. Following exchanges at the Leaders and Ministerial levels, an exploratory meeting and a video-conference were held in July and October 2011 respectively to prepare for formal FTA negotiations.

ENQUIRIES

20. For enquiries, please contact Mr Raistlin Lau, Assistant Director-General of Trade and Industry Department, at 2398 5309.

Trade and Industry Department
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