

## **LEGISLATIVE COUNCIL BRIEF**

### **FREE TRADE AGREEMENT BETWEEN HONG KONG AND GEORGIA**

#### **INTRODUCTION**

At the meeting of the Executive Council on 6 June 2017, the Council ADVISED and the Chief Executive ORDERED that the outcome of the negotiations with Georgia on a Free Trade Agreement (FTA) should be endorsed and the FTA should be signed.

#### **JUSTIFICATIONS**

##### **Key Outcomes of the Negotiations**

2. The FTA is comprehensive in scope and the commitments therein are of high quality. Some commitments go beyond those undertaken by Hong Kong and Georgia under the World Trade Organization (WTO), granting more favourable market access or treatment to one another. Key outcomes of the negotiations and expected benefits to Hong Kong are summarised in paragraphs 3 to 16 below.

##### **(A) Trade in Services**

3. We have achieved a balanced outcome on trade in services, building on both sides' commitments under the 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 Georgian market under the four modes of supply<sup>1</sup>, namely cross-border supply (Mode 1), consumption abroad (Mode 2), commercial presence (Mode 3), and movement of natural persons (Mode 4). Many of these preferential arrangements go beyond those committed under the WTO (i.e. WTO-plus) by Georgia.

4. Georgia's WTO-plus commitments in respect of Modes 1 – 3 encompass sectors where Hong Kong has traditional strengths or has

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Note <sup>(1)</sup> Detailed explanations of the four modes of supply of services are provided in the Annex.

potential for development. These include financial services, telecommunications services, various business services, audiovisual services, construction and related engineering services, environmental services, and various transport services. For arbitration services, and printing and publishing services, we have successfully sought Georgia's full liberalisation commitments under this FTA. While Georgia's commitments are generally on par with those it made under its FTAs with other trading partners, Georgia has acceded to our request of not maintaining any specific exemptions for most-favoured-nation treatment under this FTA, an undertaking it has never made before in its other FTAs.

5. Hong Kong's commitments to Georgia also cover a wide range of services, some of which are WTO-plus and in a few areas Doha-plus<sup>2</sup>. These commitments address Georgia's priority interests, such as in architectural services, engineering services, distribution services, tourism and travel related services, and maritime transport services. In respect of Mode 4, the commitments of Georgia and Hong Kong are generally balanced. They cover the temporary entry and stay of business visitors as well as intra-corporate transferees (ICT) in a wide range of sectors. In addition, Georgia's commitments also cover contractual services suppliers (CSS).

6. Our commitments for Mode 4 by and large reflect Hong Kong's existing liberal regime on temporary entry of business persons. Similar to what we have committed under the WTO and our FTAs with other economies, Hong Kong will waive the economic needs test (ENT) for entry into Hong Kong for employment in respect of ICT from Georgia in specified sectors. Such commitments on ICT, however, are confined to senior and high-skilled positions (i.e. Senior Managers and Specialists) only.

7. 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 streamline the procedures of applying for authorisation for providing services, so as to ensure that they do not constitute unnecessary barriers to trade in services. In addition, the two sides have agreed that for international maritime transport, national treatment will be granted to vessels flying the flag of the other party with regard to their access to and use of ports and port services,

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Note <sup>(2)</sup> Doha-plus refers to those commitments exceeding the revised offers tabled by Hong Kong under the on-going Doha Round of WTO services negotiations.

as well as related fees and charges, and customs formalities.

## **(B) Trade in Goods**

8. Upon the FTA entering into force, for goods originating from Hong Kong, Georgia will eliminate import tariffs on 96.6 per cent of its tariff lines. The remaining 3.4 per cent, comprising mainly agricultural products such as fruits and nuts and their preparations as well as beverages and spirits, will continue to be subject to import tariff due to domestic sensitivity in Georgia. On Hong Kong's part, we commit to binding our existing zero import tariff regime for all goods originating from Georgia when the FTA takes effect.

9. For the purpose of Georgia affording preferential tariff treatment to goods of Hong Kong origin, the two sides have formulated a set of preferential rules of origin which include certain "value-based" rules<sup>3</sup> for certain goods. These rules are among the most favourable that Georgia has adopted under its FTAs with other economies. 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 (Scheduled Trade Arrangements) of the Trade Descriptions Ordinance (Cap. 362) by notice published in gazette.

10. On the use of trade remedy measures<sup>4</sup>, the FTA includes disciplines additional to the relevant WTO Agreements. Among others, Georgia has agreed to forgo its right to use countervailing measures and tighten the application of anti-dumping measures. Coupled with the provisions on enhancing transparency, the trade remedies provisions will better safeguard Hong Kong's interest. As Hong Kong is not a user of such measures, the additional disciplines will not pose any problem to us.

11. Hong Kong and Georgia will strengthen cooperation and enhance transparency in the areas of sanitary and phytosanitary measures<sup>5</sup> and

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Note <sup>(3)</sup> Under "value-based" rules, goods may claim Hong Kong origin on the basis of the proportion (which may be different for different categories of goods) of either the value added to the goods in Hong Kong or the value of non-originating materials used in their manufacture, to the total value of the goods.

Note <sup>(4)</sup> Trade remedy measures refer to anti-dumping, countervailing and safeguard measures. Imposition of these measures by the importing economy could result in additional duties (being one of the usual forms) on top of tariffs and other charges or other import restrictions on certain imports.

Note <sup>(5)</sup> Sanitary and phytosanitary measures are any measures applied (i) to protect human or animal life or health from risks arising from additives, contaminants, toxins or disease-causing organisms in their food; (ii) to protect human life or health from plant- or animal-carried diseases or pests; (iii) to protect animal or plant life or health from pests, diseases, disease-

technical barriers to trade<sup>6</sup>, with the objective of facilitating bilateral trade as far as possible. Both sides will also simplify and harmonise customs procedures, facilitate trade, and promote cooperation between their customs administrations.

### **(C) Investment**

12. The FTA contains a chapter on Establishment<sup>7</sup>, which includes provisions that will enhance investors' confidence and facilitate two-way investment flows between Hong Kong and Georgia by providing investors with non-discriminatory treatment as compared with a party's own investors and other safeguards, in respect of their investments in non-services sectors<sup>8</sup>. The commitments agreed are WTO-plus.

### **(D) Other Areas**

13. The FTA contains provisions to ensure effective protection of intellectual property rights, promote competition, and enhance protection of the environment while encouraging trade and investment. Commitments and cooperation in these areas would have the positive effect of facilitating trade and investment flows between Hong Kong and Georgia. The FTA also provides for a transparent process for consultations and settlement of disputes in relation to the FTA.

### **Economic and Strategic Value of the FTA**

14. The FTA will help Hong Kong businesses tap the Georgian market, which offers potential opportunities as a gateway to the Caucasian region of Eurasia covered under the Belt and Road Initiative. Apart from forging a transparent, consistent and predictable regime for trade between Hong Kong and Georgia, the FTA will generate on the part of the Georgian business community greater interest in and a better understanding of the Hong Kong market, potentially attracting more investments from Georgia to Hong Kong. Given the close economic ties between Georgia and its trading partners in the Eurasia region, the FTA will allow these economies

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carrying organisms or disease-causing organisms; and (iv) to prevent or limit other damage from the entry, establishment or spread of pests.

Note <sup>(6)</sup> Technical barriers to trade include technical regulations, standards and conformity assessment procedures that may directly or indirectly affect trade in goods.

Note <sup>(7)</sup> Establishment refers to investments in the forms of (i) the constitution, acquisition or maintenance of a juridical person; or (ii) the creation or maintenance of a branch or a representation office, in non-services sectors, for the purpose of performing an economic activity.

Note <sup>(8)</sup> Non-discriminatory treatment as compared with a party's own investors and other safeguards in respect of investments in services sectors are covered by the chapter on Trade in Services.

to know more about us. The FTA will therefore enhance trade and investment flows between Hong Kong and Georgia and the greater Eurasia region, benefiting our economy.

15. On trade in goods, since the bilateral trade between Hong Kong and Georgia is relatively small at present, the resultant tariff saving from this FTA is not significant. We estimate that Georgia's commitments on elimination of import tariffs under the FTA will roughly result in annual tariff savings for Hong Kong of about HK\$2.66 million<sup>9</sup>. We envisage that the amount of savings will grow with the closer trade relations the FTA will bring about.

16. Apart from direct economic benefits, the FTA also carries significant strategic value for Hong Kong. It will expand our FTA network with the Eurasia region, in addition to our existing linkage with the Asia-Pacific, European and South American regions through the Closer Economic Partnership Arrangement (CEPA) between Hong Kong and the Mainland, the CEPA with Macao, as well as FTAs with New Zealand, the Member States of the European Free Trade Association (EFTA)<sup>10</sup>, Chile and the Association of Southeast Asian Nations (ASEAN)<sup>11</sup>. It is also the first FTA between Hong Kong and an economy in the Caucasian region of Eurasia covered under the Belt and Road Initiative thus reinforcing our role as a gateway between the Mainland and our overseas trading partners.

## **BASIC LAW IMPLICATIONS**

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

## **FINANCIAL AND CIVIL SERVICE IMPLICATIONS**

18. Additional resources implications, if any, arising from the implementation of the FTA, including that related to the relevant enforcement activities, will be absorbed by existing resources of relevant bureaux/departments.

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Note <sup>(9)</sup> The estimated tariff savings are calculated on the basis of Hong Kong's domestic exports to Georgia in 2017 and the latest average applied tariff rates of Georgia in 2016.

Note <sup>(10)</sup> The Member States of the EFTA comprise Iceland, Liechtenstein, Norway and Switzerland.

Note <sup>(11)</sup> ASEAN comprises Brunei Darussalam, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Viet Nam.

## **ECONOMIC IMPLICATIONS**

19. Signing the FTA with Georgia 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 Georgian market which may potentially serve as a gateway to the Eurasia region. Coupled with Hong Kong's competitive edge under the Belt and Road Initiative, this FTA will 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**

20. The FTA with Georgia will bring more and better access to the Georgian market, create more business opportunities for Hong Kong businessmen and increase trade and investment flows between Hong Kong and Georgia. Enhancing our economic links with Georgia will also help reinforce Hong Kong's position as an international trade, economic and financial hub.

## **ENVIRONMENTAL IMPLICATIONS**

21. The Environment and Trade Chapter in the Agreement has positive environmental implications for Hong Kong. The Chapter seeks to enhance cooperation in protection of the environment and achieving the goals of sustainable development.

## **LEGISLATIVE IMPLICATIONS**

22. Implementation of the FTA would require legislative amendments as set out in paragraph 9 above.

## **PUBLIC CONSULTATION**

23. We conducted a one-month public consultation exercise on the proposed FTA between Hong Kong and Georgia from May to June 2016 to help develop our negotiation positions and 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**

24. Details of the FTA, including the full texts, will be uploaded onto the Trade and Industry Department's website ([www.tid.gov.hk](http://www.tid.gov.hk)) after Hong Kong and Georgia have signed the FTA on 28 June 2018. A press release will be issued and a spokesperson will be available to answer media enquiries.

## **BACKGROUND**

25. Hong Kong and Georgia commenced FTA negotiations in September 2016. After two rounds of talks, the negotiations were concluded in April 2017. The FTA will become effective after the completion of the necessary internal procedures by Hong Kong and Georgia.

26. The total merchandise trade between Hong Kong and Georgia was HK\$320 million in 2017. Georgia ranked 121st among Hong Kong's worldwide trading partners for trade in goods in 2017.

27. Hong Kong has so far signed six FTAs respectively with the Mainland, New Zealand, the Member States of the EFTA, Chile, Macao and ASEAN.

## **ENQUIRIES**

28. For enquiries, please contact Mr Owin FUNG, Assistant Director-General of Trade and Industry Department, at 2398 5309.

**Trade and Industry Department**  
**28 June 2018**

## **EXPLANATIONS OF THE FOUR MODES OF SUPPLY FOR TRADE IN SERVICES**

### ***Cross Border Supply (Mode 1)***

The cross border mode of supply refers to the supply of service from the area of an FTA party into the area of the other FTA party. If Party A of an FTA makes commitment in respect of Mode 1, a service supplier of the other Party of the FTA (i.e. Party B) can supply the service within the area of Party B to service consumers in the area of Party A, without being physically present in the area of Party A. An example is the supply of service through telecommunications, fax or mail etc.

### ***Consumption Abroad (Mode 2)***

The consumption abroad mode of supply refers to the supply of service in the area of an FTA party to the service consumer of the other FTA party. If Party A of an FTA makes commitment in respect of Mode 2, a service supplier of Party B can, within the area of Party B, provide the service to consumers of Party A who are present in the area of Party B. An example is the supply of tourism services.

### ***Commercial Presence (Mode 3)***

The commercial presence mode of supply refers to the supply of service by a service supplier of an FTA party, through commercial presence in the area of the other FTA party. If Party A of an FTA makes commitment in respect of Mode 3, a service supplier of Party B can provide the service within the area of Party A through commercial presence in the area of Party A. This covers the presence of juridical persons (e.g. corporations, joint ventures, partnership, sole proprietorship, trust, association) as well as representative offices, branches etc.

### ***Movement of Natural Person (Mode 4)***

The movement of natural person mode of supply refers to the supply of service by a service supplier of an FTA party, through the presence of natural persons in the area of the other FTA party. If Party A of an FTA makes commitment in respect of Mode 4, service supplier of Party B can provide the service within the area of Party A through the presence of natural persons of Party B. This covers natural persons who are themselves service suppliers, as well as natural persons who are employees of service suppliers (e.g. accountants of accounting firms).