

LEGISLATIVE COUNCIL BRIEF

**HONG KONG – NEW ZEALAND
CLOSER ECONOMIC PARTNERSHIP AGREEMENT**

INTRODUCTION

At the meeting of the Executive Council on 16 March 2010, the Council ADVISED and the Chief Executive ORDERED that Hong Kong should confirm acceptance of the outcome of the negotiations with New Zealand on a bilateral free trade agreement (FTA) entitled “Hong Kong, China – New Zealand Closer Economic Partnership Agreement” (CEP Agreement) and commitments thereof, and sign the CEP Agreement and the related side instruments.

JUSTIFICATIONS

Key Outcome of the CEP Negotiations

2. The CEP Agreement is comprehensive in scope and commitments therein are of high quality, going beyond the respective commitments undertaken by Hong Kong and New Zealand under the World Trade Organization (WTO) in many areas. Key outcome of the CEP negotiations and the expected economic benefits the CEP Agreement would bring about are summarised in paragraphs 3 to 17 below. In broad terms, concluding an FTA with New Zealand will open up new business opportunities in the New Zealand market for Hong Kong businessmen, and increase trade and investment flows between the two places thereby benefiting our economy.

(a) Trade in Goods

3. Under the CEP Agreement, New Zealand will phase out over six years its import tariffs on all goods originating from Hong Kong. On the basis of the average merchandise trade figures from 2006 to 2008, we estimate that upon complete elimination of New Zealand's tariffs, Hong Kong's annual tariff savings will be around HK\$7 million. On Hong Kong's part, we commit to bind our existing zero import tariff regime with respect to all goods originating from New Zealand from the entry into force of the CEP Agreement, the effect of which is binding the status quo. For the purpose of claiming preferential tariff treatment for goods of Hong Kong origin exported to New Zealand, the two sides have formulated a set of transparent rules of origin.

4. On the application of trade remedy measures^[1], the CEP Agreement includes additional disciplines on top of the requirements in the relevant WTO Agreements. Such disciplines will tighten the use of trade remedy measures and improve their transparency. As Hong Kong is not a user of trade remedy measures, the additional disciplines do not pose any problem to us. On the other hand, New Zealand's commitments to comply with the enhanced disciplines will better safeguard Hong Kong's trade interest.

5. Under the CEP Agreement, Hong Kong and New Zealand will also cooperate in the areas of sanitary and phytosanitary measures^[2],

Note ^[1] **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 ^[2] **Sanitary and phytosanitary measures** are any measures applied: (i) to protect human or animal life from risks arising from additives, contaminants, toxins or disease-causing organisms in their food; (ii) to protect human life from plant- or animal-carried diseases; (iii) to protect animal or plant life from pests, diseases, or disease-causing organisms; and (iv) to prevent or limit other damage to a country from the entry, establishment or spread of pests.

technical barriers to trade^[3] and customs procedures, with the objective of reducing trade barriers and facilitating bilateral trade as far as possible.

(b) Trade in Services

6. Since services play a key role in both the economies of Hong Kong and New Zealand, the two sides have aimed to and have achieved a high quality outcome on trade in services, building on existing rights and obligations under the WTO General Agreement on Trade in Services.

7. In terms of market access, Hong Kong service providers will enjoy under the CEP Agreement secured preferential opportunities in the New Zealand market. These preferential opportunities go beyond those already enjoyed under the WTO (i.e. WTO-plus). The list of services for which New Zealand has made WTO-plus commitments is comprehensive. It encompasses sectors of Hong Kong's traditional priority where we have competitive advantage, such as maritime transport services, logistics and related services, audiovisual services and various business services (such as accounting, auditing and bookkeeping services, computer and related services, management consulting services, services incidental to manufacturing). It also includes areas under the six key industries identified for further promotion in the 2009-10 Policy Address, namely, education services, medical services, testing and certification services, environmental services, innovation and technology, and cultural and creative industries.

8. Reciprocally, Hong Kong has also made broad commitments covering a variety of services, some of which go beyond what we have offered under the ongoing WTO service negotiations. Having said that, such commitments do not go beyond Hong Kong's existing liberal service regime and do not require any changes to existing policies, except in respect of intra-corporate transferees (see paragraph 11 below).

Note ^[3] The disciplines of **technical barriers to trade** cover all technical regulations, standards and conformity assessment procedures that may directly or indirectly affect the trade in goods between parties to an FTA, regardless of the origin of the goods.

9. Apart from market access commitments, the two sides have also agreed on a set of robust disciplines on domestic regulation to ensure that the real commercial value of either side's service commitments would not be undermined by opaque or unnecessarily trade-restrictive domestic regulation. Besides, recognising that education is an area of mutual interest, both sides have agreed to enter into an arrangement to promote cooperation in this field.

10. Both sides have also agreed on an overarching provision on most favoured nation (MFN) treatment which enables service suppliers of each side to enjoy the other side's additional service commitments in its future FTAs^[4]. The MFN treatment obligation is however not applicable to certain services specified in their respective lists of reservations annexed to the CEP Agreement.

(c) Movement of Business Persons

11. The CEP Agreement also sets out the commitments of the two sides in respect of the movement of business persons (MBP). Without compromising legitimate immigration control, business persons of the two economies in the categories of business visitors, intra-corporate transferees (ICT), and installers or servicers^[5] in specified service sectors will be granted temporary entry into Hong Kong and New Zealand under favourable conditions. Our commitments for MBP by and large reflect Hong Kong's existing liberal regime on temporary entry of business persons. In respect of ICT from New Zealand in the specified sectors, Hong Kong will waive the economic needs test requirements^[6] for their entry into Hong Kong. Since our commitments on ICT are confined to

Note ^[4] Commitments under our Closer Economic Partnership Arrangement (CEPA) with the Mainland and its existing and future Supplements are not subject to the provision on MFN treatment.

Note ^[5] An installer or servicer under the CEP Agreement is defined as a natural person of either Hong Kong or New Zealand who is an installer or servicer of machinery and/or equipment, where such installation and/or servicing by the supplying company is a condition of purchase of the said machinery or equipment.

Note ^[6] The test comprises the economic benefits test (i.e. whether the person can make a substantial contribution to Hong Kong's economy) and labour market test (whether the person possesses a skill, knowledge or expertise that is not readily available locally).

only the senior and high-skilled positions (i.e. Senior Manager and Specialist), we do not envisage the waiving of the economic needs test will have significant impact on Hong Kong's employment market, in particular the low-skilled sector. As regards installers or servicers, we have retained the current economic needs test requirements. These commitments on MBP by both sides, coupled with the streamlined and transparent immigration procedures agreed under the CEP Agreement, would further facilitate movement of business persons between Hong Kong and New Zealand.

(d) Investment

12. The Hong Kong – New Zealand Investment Promotion and Protection Agreement (IPPA) has been in force since August 1995. To further enhance investment flows between Hong Kong and New Zealand, the two sides have agreed to negotiate an Investment Protocol to the CEP Agreement, with a view to concluding the investment negotiations in two years' time after the CEP Agreement has entered into force. The investment negotiations will cover elements aimed to enhance the promotion and protection of investments between the two economies, including non-discrimination, fair and equitable treatment, full protection and security, etc. Separately, while New Zealand reserves its rights to subject investment activities exceeding NZ\$20 million (HK\$110 million) to prior approval, it has agreed to review this threshold with a view to increasing it in the context of and upon conclusion of the negotiations on the Investment Protocol to the CEP Agreement.

(e) Other Areas in the CEP Agreement

13. Apart from trade in goods and services, the CEP Agreement contains provisions to promote competition, ensure effective protection of intellectual property rights, facilitate access to each other's government procurement market, and encourage the development and use of electronic commerce. The two sides' commitments and cooperation in these aspects are in line with the relevant WTO Agreements and Asia Pacific Economic Cooperation (APEC) Principles, and are compatible with their respective domestic regimes. Such commitments and cooperation would facilitate, directly or indirectly, trade and investment

flows between Hong Kong and New Zealand.

14. The CEP Agreement also provides for an effective, efficient and transparent process for consultations and the settlement of possible disputes that may arise from the Agreement.

(f) Side Agreements on Environment and Labour Cooperation

15. Alongside the CEP Agreement, Hong Kong and New Zealand also negotiated an Environment Cooperation Agreement (ECA) and a Memorandum of Understanding on Labour Cooperation. Both are legally-binding international agreements to be signed at the same time with the CEP Agreement. Whilst respecting each other's right to regulate and implement its own environment and labour laws and policies, the two side agreements provide formalised frameworks within which both economies can promote sound policies and practices through cooperation and dialogue. The agreements also set out the shared understanding of the two sides of not using environmental and labour laws and policies for trade protectionist purposes.

Economic and Strategic Value of the CEP Agreement

16. The CEP Agreement will bring both tangible and intangible economic benefits to Hong Kong. Specifically, it would result in definitive tariff elimination for all goods of Hong Kong origin exported to New Zealand. On total tariff elimination in six years' time, the tariff savings is estimated to be around \$7 million per year on the basis of 2006 to 2008 figures. On trade in services, Hong Kong service providers will enjoy secured market access and the legal certainty of the continuation of non-discriminatory treatment in New Zealand. By virtue of the MFN treatment provision, Hong Kong service providers will also be able to enjoy New Zealand's additional service commitments in its future FTAs. Coupled with the trade facilitation measures and the transparency enhancing initiatives under the CEP Agreement, transaction costs for conducting bilateral trade with New Zealand will be reduced, and inward investment by New Zealand to Hong Kong may also be further encouraged with a better understanding of the situation and potential of the Hong Kong market. The CEP Agreement is also expected to have a

trade creation effect as the closer trade and investment ties fostered by the Agreement may generate trade of currently non-traded goods and services and stimulate further growth in trade related services, e.g. transportation and logistics, construction and engineering, professional services, the tourism and travel related industries in Hong Kong.

17. Apart from economic benefits, the CEP Agreement also carries significant strategic value for Hong Kong. As the CEP Agreement will be Hong Kong's first FTA with a foreign economy, it has important strategic value in demonstrating Hong Kong's desire and readiness in concluding high quality FTAs. These will have positive effect on our continued pursuit of FTAs with other trading partners to improve the conditions of access for our goods, services and investment in overseas markets.

BASIC LAW IMPLICATIONS

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

19. The commitments made under the CEP Agreement are no more than a reflection of Hong Kong's existing *de facto* regimes and do not require any changes to existing policies except that set out in paragraph 11 in respect of ICT. Additional resources, if any, required for the implementation of the CEP Agreement, including that related to the issuance of Certificates of Hong Kong Origin to support the claim for preferential tariff treatment for goods exported to New Zealand as well as relevant enforcement activities, will be absorbed by existing manpower resources of relevant Bureaux/Departments through redeployment of resources as appropriate.

ECONOMIC IMPLICATIONS

20. The CEP Agreement has positive economic implications for Hong Kong. In broad terms, the Agreement will provide Hong Kong with better access to the New Zealand market and create more business opportunities beneficial to Hong Kong's long-term economic growth. It will also strengthen Hong Kong's role as an international trade and commerce centre.

SUSTAINABILITY IMPLICATIONS

21. The CEP Agreement will bring more and better export opportunities to Hong Kong traders. This in turn benefits other trade related sectors in the Hong Kong economy, including banking, insurance and transportation. 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

22. The ECA with New Zealand has positive environmental implications for Hong Kong. The ECA will promote sound environmental policies and practices, and through cooperation and experience sharing, improve our capacities and capabilities in addressing environmental matters.

PUBLIC CONSULTATION

23. We conducted two public consultation exercises on the CEP negotiations with New Zealand, in 2001 and 2009 respectively, to help develop our negotiation positions and better gauge the local business community's areas of interest. In both exercises, we sought views from major trade and industrial associations, professional bodies and the general public, and their feedback was generally positive.

PUBLICITY

24. On 13 November 2009, the Chief Executive and the Prime Minister of New Zealand jointly announced the conclusion of the CEP negotiations in the margins of the APEC Economic Leaders' Meeting in Singapore. A signing ceremony for the CEP Agreement will be held on 29 March 2010. Details of the CEP Agreement will be made public after formal signing by Hong Kong and New Zealand. A press release will be issued and a spokesperson will be made available to answer media enquiries.

BACKGROUND

25. Hong Kong and New Zealand commenced negotiations on the CEP Agreement in 2001. While formal negotiations were suspended in 2002, the two sides maintained dialogue on the issues. In May 2009, the two sides resumed formal negotiations. After five rounds of talks, the negotiations were concluded in November 2009 in Singapore.

26. Subject to the completion of the necessary domestic procedures, both sides aim to have the CEP Agreement come into force in the last quarter of 2010.

27. Total bilateral merchandise trade between Hong Kong and New Zealand amounted to about HK\$6.5 billion in 2009 while total bilateral service trade amounted to about HK\$3.7 billion in 2008.

ENQUIRIES

28. For enquiries, please contact Miss Angela Lee, Assistant Director-General of Trade and Industry Department, at 2398 5309.

Trade and Industry Department
29 March 2010