

# **Negotiation of a Free Trade Agreement between Hong Kong and the Association of Southeast Asian Nations**

## **Consultation Document**

### **INTRODUCTION**

The Government of the Hong Kong Special Administrative Region will negotiate a Free Trade Agreement (FTA) with the Association of Southeast Asian Nations (ASEAN) (Note 1). This note provides information on key areas to be covered in the negotiations. It also invites comments and suggestions from interested parties with a view to assisting the Government in formulating its strategies and positions in the FTA negotiation with ASEAN.

### **BACKGROUND**

#### **Hong Kong's Position on FTAs**

2. Hong Kong is a staunch supporter of the multilateral trading system. Nevertheless, we maintain an open mind on bilateral, plurilateral and regional FTAs (Note 2). We are prepared to explore the possibility of entering into FTAs with other economies, so long as they are in Hong Kong's interests, are consistent with the principles and provisions of the World Trade Organization (WTO), and can contribute to multilateral trade liberalisation.

3. We have been actively pursuing FTAs with our trading partners. Hitherto, we have signed four FTAs respectively with the Mainland in 2003, New Zealand in 2010, the Member States of the European Free Trade Association (Note 3) in 2011, and Chile in 2012. In addition, Hong Kong and ASEAN agreed in April 2013 to pursue an FTA.

#### **General Economic and Trade Relations between Hong Kong and ASEAN**

4. ASEAN is an important trading and investment partner of Hong Kong. Our overarching objective is to foster even closer economic partnership with ASEAN through an FTA, which will create better and more favourable conditions for trade and investment flows between the two places.

## Merchandise Trade

5. In terms of trade in goods, taken as a group, ASEAN was Hong Kong's 2nd (Note 4) largest trading partner in 2013, with total bilateral trade amounted to HK\$750 billion, about 10% of Hong Kong's total trade, and an increase of 3% as compared to 2012. The average annual growth rate of bilateral trade between Hong Kong and ASEAN from 2009 to 2013 was 10%, a remarkable increase having regard to the economic slowdown globally in recently years.

6. Among the ten ASEAN Member States, five of them, namely Singapore (total bilateral merchandise trade in 2013 amounted to HK\$305 billion), Thailand (HK\$121 billion), Malaysia (HK\$114 billion), Viet Nam (HK\$98 billion) and the Philippines (HK\$64 billion) were among the top 20 goods trading partners of Hong Kong in 2013.

7. Of the HK\$8 billion worth of Hong Kong's domestic exports to ASEAN in 2013, tobacco and tobacco manufactures; metalliferous ores and metal scrap; and inorganic chemicals constituted the major export items. Imports from ASEAN reached HK\$514 billion in 2013. Major import items included electrical machinery, apparatus and appliance, and electrical parts thereof; telecommunications and sound recording and reproducing apparatus and equipment; and office machines and automatic data processing machines. In terms of re-exports to ASEAN, the major items were electrical machinery, apparatus and appliances, and electrical parts thereof; telecommunications and sound recording and reproducing apparatus and equipment; and office machines and automatic data processing machines.

## Trade in Services

8. In 2012, ASEAN was Hong Kong's 4th largest services trading partner. Bilateral services trade amounted to HK\$110 billion, representing 8% of Hong Kong's total trade in services with the world.

9. Among the ten ASEAN Member States, six of them, namely Singapore (total bilateral services trade in 2012 amounted to HK\$49 billion), Malaysia (HK\$18 billion), Thailand (HK\$17 billion), the Philippines (HK\$11 billion), Indonesia (HK\$10 billion) and Viet Nam (HK\$5 billion) were among the top 20 services trading partners of Hong Kong.

10. Services trade between Hong Kong and ASEAN has recorded remarkable growth in recent years. The average annual growth rate was 6.8% between 2008 and 2012. Transport, travel and other business services constitute Hong Kong's major services exports to, as well as major services imports from, ASEAN.

### Investment

11. Hong Kong and ASEAN have a close investment relationship. As at the end of 2012, ASEAN was the 6th largest source of foreign direct investment (FDI) into Hong Kong (with cumulated stock of HK\$234 billion) and the 5th largest destination of FDI from Hong Kong (with cumulated stock of HK\$207 billion). Among the ten ASEAN Member States, only Singapore (with cumulated stock of HK\$205 billion) was within the top 20 sources of FDI into Hong Kong; while four of them namely, Singapore (with cumulated stock of HK\$62 billion), Thailand (HK\$56 billion), Malaysia (HK\$45 billion), and the Philippines (HK\$21 billion) were within the top 20 destinations of FDI from Hong Kong.

12. Hong Kong investors' interest in ASEAN has been growing rapidly. FDI from Hong Kong to ASEAN doubled from HK\$14 billion in 2011 to HK\$28 billion in 2012.

13. Among the ASEAN Member States, Hong Kong has signed an Investment Promotion and Protection Agreement (IPPA) with Thailand in 2005. Hong Kong has also concluded IPPA negotiations with Myanmar in 2013. The IPPA with Myanmar will be signed after both sides complete their internal procedures.

### **KEY ELEMENTS TO BE COVERED IN THE NEGOTIATIONS AND VIEWS SOUGHT**

14. Hong Kong and ASEAN share a common aspiration of pursuing a comprehensive and high-quality FTA consistent with WTO principles and provisions. The negotiations will cover the following key elements -

- (a) elimination and/or reduction of tariffs;
- (b) rules of origin;
- (c) liberalisation of trade in services;
- (d) liberalisation, promotion and protection of investment; and
- (e) intellectual property cooperation.

It will also cover other areas of mutual interest, including non-tariff barriers (Note 5), trade remedy measures (Note 6), customs procedures and trade facilitation, economic and technical cooperation, and dispute settlement.

## **Tariffs**

15. Hong Kong does not apply any tariff on imports. For ASEAN Member States, average applied tariff rates range from zero to 10.3% (Note 7), as follows :

<u>ASEAN Member States</u>	<u>Average Applied Tariff Rates</u>
Brunei Darussalam	2.9%
Cambodia	10.3%
Indonesia	6.9%
Laos	8.2%
Malaysia	5.8%
Myanmar	5.1%
The Philippines	5.7%
Singapore	0.0%
Thailand	8.0%
Viet Nam	8.4%

16. Under the FTA negotiations, Hong Kong and ASEAN Member States will seek to agree on the modalities for elimination and/or reduction of tariffs for products originated from Hong Kong, while Hong Kong will bind its tariff on all products originated from ASEAN Member States at zero percent.

**Views sought:** we invite views on which sectors (please specify which ASEAN Member State(s) if applicable) Hong Kong should particularly focus on in tariff negotiations under the FTA.

## **Rules of Origin**

17. The existing origin rules applicable to Hong Kong's domestic exports are based on the criterion of "last substantial transformation" (Note

8) and are applied for non-preferential purpose. To ensure that only goods of Hong Kong and ASEAN origin would benefit from the preferential tariff rates under the FTA to be negotiated, it will be necessary for both sides to agree on a set of origin rules to prevent circumvention.

18. Under the FTA negotiations, the two sides will seek to agree on a set of simple and transparent rules of origin to facilitate trade in goods between Hong Kong and ASEAN. It is envisaged that both sides will also draw up implementation details of the origin rules, including the documentation requirements for products to substantiate claim of origin and preferential tariffs on importation, with an aim of encouraging trade in goods between Hong Kong and ASEAN.

**Views sought:** we invite views on the origin rules under the FTA with ASEAN as well as the implementation aspects of such rules.

### **Trade in Services**

19. Our major services sectors include import and export trade, wholesale and retail trades (25.4% of GDP in 2012); public administration, social and personal services (16.8%); financing and insurance services (15.9%); real estate, professional and business services (11.5%); transportation, storage, postal and courier services (6.0%); and information and communications services (3.5%).

20. We aim to seek better or more secured access to services markets of ASEAN Member States in the FTA negotiations.

**Views sought:** we invite views on -

- (a) which services sectors and services measures of ASEAN (please specify which ASEAN Member State(s) if applicable) Hong Kong should particularly focus on in the services negotiations under the FTA, e.g. whether there are any existing or foreseeable hurdles to the provision of services in the ASEAN's market; and
- (b) whether there are any services sectors, areas or measures which Hong Kong should be more cautious in undertaking commitments, including those commitments to maintain our current regime for access of services or services suppliers of ASEAN.

We also welcome comments and inputs on other matters relating to services trade with ASEAN.

## **Investment**

21. Hong Kong is an investment hub. In 2012, our FDI inflow and outflow ranked 3rd and 4th respectively in the world (Note 9). Hong Kong and ASEAN are mutually important investment partners. ASEAN is also a fast-growing economy that offers investment opportunities. The aim of the negotiations will be to promote, liberalise, protect and facilitate investments between Hong Kong and ASEAN Member States.

**Views sought:** we invite views on improvements that should be sought from ASEAN to its policy on, and treatment of, investments from Hong Kong.

## **Intellectual Property Rights**

22. Under the FTA negotiations, the two sides will explore intellectual property cooperation in accordance with the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights based on mutual interest.

**Views sought:** we invite views on mutually beneficial intellectual property cooperation that should be pursued under the FTA.

## **Other Elements of Negotiations**

23. The FTA negotiations will cover, amongst others, reduction of non-tariff barriers, improvement on the rules of trade remedy measures, simplification of customs procedures and enhancement of trade facilitation, promotion of economic and technical cooperation in areas of mutual interest, and a simple mechanism for timely settlement of disputes. We welcome views and suggestions, if any, on these elements.

## **CONCLUDING REMARKS**

24. We believe that an FTA with ASEAN will facilitate and enhance trade and investment flows between Hong Kong and ASEAN, bring about better market access opportunities and create more favourable business environment for Hong Kong's businessmen. It will also strengthen Hong Kong's role as an international trade, commerce and financial centre.

25. Interested parties are invited to submit their views and suggestions in writing by **7 July 2014** by mail, fax, or e-mail as indicated below. For enquiries, you are welcome to contact Mr. Rubio CHAN at 3403 6467 or email: [fta@tid.gov.hk](mailto:fta@tid.gov.hk).

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## **REFERENCES**

26. For an overview on the latest statistics on the selected key indicators about ASEAN and its Member States, please refer to ASEAN's official website: <http://www.asean.org/resources/category/asean-statistics>.

**Trade and Industry Department**  
**The HKSAR Government**  
**26 May 2014**

Note 1 :

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

Note 2 :

An FTA is an agreement concluded by two or more economies that provides preferential access to each other's markets by eliminating or reducing tariffs and other restrictive measures in the trade in goods and services, investment, and other trade-related areas between the participating economies.

Note 3 :

Member States of the European Free Trade Association refer to Iceland, Liechtenstein, Norway and Switzerland.

Note 4 :

The European Union is counted as one single entity for the rankings in this document except the rankings of Hong Kong's FDI inflow and outflow in the world.

Note 5 :

Non-tariff barriers are trade restrictive measures other than tariffs, such as quotas, import licensing systems, sanitary and phytosanitary measures, technical barriers to trade, prohibitions, etc.

Note 6 :

Trade remedy measures refer to anti-dumping, countervailing and safeguard measures. Imposition of these measures could result in additional duties (being one of the usual forms) on top of tariffs and other charges by the importing economy.

Note 7 :

Based on the latest average applied tariff rates on non-agricultural products available in WTO.

Note 8 :

The "last substantial transformation" criterion, when applied to manufactured goods involving multiple country/place materials and/or processing, refers generally to the manufacturing process (or processes) which has changed permanently and substantially the shape, nature, form or utility of the basic materials used in manufacture.



Note 9 :

Source: United Nations Conference on Trade and Development