The Hong Kong Institute of Chartered Secretaries

Submission:

Strategic Dialogue on Trade Partnership

The Hong Kong Institute of Chartered Secretaries 香港特許秘書公會
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By Email only: mdiv1@tid.gov.hk

Trade and Industry Department (TDI)
Room 1808A, Trade and Industry Tower
3 Concorde Road, Kowloon City
Hong Kong

Attn: Miss Winky So/Deputy Director-General of Trade and Industry

Dear Sirs

Re: Strategic Dialogue on Trade Partnership (Ref: WT123/1/9)

We refer to your letter of 6 February 2018 addressed to us.

About HKICS

The Hong Kong Institute of Chartered Secretaries (HKICS) is an independent professional institute representing Chartered Secretaries as governance professionals in Hong Kong and Mainland China with over 5,800 members and 3,200 students. HKICS originates from The Institute of Chartered Secretaries and Administrators (ICSA) in the United Kingdom (UK) with 9 divisions and over 30,000 members and 10,000 students internationally. HKICS is also a Founder Member of Corporate Secretaries International Association Limited (CSIA), an international organisation comprising 15 national member organisations to promote good governance globally.

Our Responses

From the background information provided, HKICS has a connection with the UK. Further, a number of our Members are affiliated with some of the largest and most sophisticated investors into and/or trading with the UK. Following consultation with them we have added to larger trade issues in relation to the questions raised by you:

(a) Are you interested in the UK market? If so, what are your priority areas and whether you have encountered specific barriers when seeking entry into the UK market?

- **In General.** The UK is one of the top inbound and outbound trading destination for Hong Kong. There is no doubt that there is interest amongst HKICS and our Members to continue to invest and/or trade with the UK as a market place for the mutual benefit of both Hong Kong and the UK.

- **Governance.** For HKICS as the Hong Kong and China division of ICSA and part of the global profession focused on good governance, our priority area is the trade in governance. The current issue is that while governance is a catchword globally, there is no World Trade Organisation (WTO) classification under its Services Sectoral Classification List. HKICS will be joining force with CSIA to lobby for a new WTO Corporate Governance, Compliance and Secretarial Advisory Services (CGCSAS) classification. HKICS looks forward to a discussion with TDI and the UK Government representatives to support the CGCSAS initiative. HKICS believes that both the Hong Kong and the UK with their strong rule of law base and as leading financial markets will benefit from systemised trade in governance which complements capital markets and other business activities.

- **UK Infrastructure Investments.** Aside from usual and existing barriers, including regulatory approvals and filings, there is a concern relating to national security being used as a new barrier to investments following the recent UK National Security and Infrastructure Review Consultation which closed on 9 January 2018. We welcome TDI taking the initiative to explain that Hong Kong investors do not pose any national security risk to the UK Government on infrastructure investments.

- **Leverage Finance.** For business currently using the UK as a jurisdiction for leverage leasing for aircraft and related engine and parts financing, there is a concern that changes to tax rules following BREXIT could potentially be a new barrier that affect the viability of structured leverage financing and other 'offshore' business transactions. We welcome TDI seeking clarification of this issue.

- **European Customs.** A related issue are concerns that there will be, after BREXIT, added barriers to entry into Europe in terms of additional customs tariff. This would especially affect the viability of using UK for headquarter purposes for entry into Europe. We welcome TDI seeking clarification of this issue.

- **BREXIT.** Aside from the above, there is also a general concern that BREXIT may result in there being additional barriers to entry into the UK and affect its position in being a friendly place to doing business, including because of the need to raise revenue in a post-BREXIT era for UK finances. We welcome TDI informing the market of developments on this issue, as appropriate.

(b) What do you consider to be the top three things that would improve the ease of doing business in the UK market for your sector?

- From the general feedback of our Members, the first and foremost matter that would affect the ease the doing of business in the UK is an orderly BREXIT. The UK should announce its continued commitment to the free flow of goods, talents and tourism. The UK should also clarify any potential tariffs or non-tariff barriers following UK's departure from the EU. There should be a simple tax regime for international investors.

- While there is an understanding of the UK Government's desire to protect its infrastructure from a national security perspective, the protection should be garnered without hindering legitimate investment detrimental to foreign direct investments (FDIs) and private ownership. The proposals should be designed and implemented efficiently and in a straight forward manner so that investors are clear when making investment decisions.

- UK should consider and announce its commitment to extend most-favoured nation (MFN) status to Hong Kong under its bilateral and multinational trade treaties with Hong Kong following the post-BREXIT era as the UK would be free to negotiate its own treaty relationships. We have Member comments that the HK/UK bilateral treaty had not been deployed to the benefit of the HK investors, let alone MFN status. The UK Government should level the playing field in comparison to UK investors like relating to the telecommunications sector.

(c) *What further Government-to-Government cooperation between Hong Kong and the UK in the next five years do you consider to be most beneficial to the growth of your sector and the economy of Hong Kong?*

- The Hong Kong and UK Governments should actively keep the public fully informed under regularly scheduled updates of the progress of any potential arrangements following the post-BREXIT era being negotiated to add to investor confidence in making investment and trading decisions with UK despite the overhang of the uncertainty with BREXIT.

- The Hong Kong and UK Governments should consider whether there is scope to complement each other because the two jurisdictions, whilst being financial centres, are in different time zones and focus on different markets.

Should you have any questions, please feel free to contact Samantha Suen FCIS FCS(PE), Chief Executive, HKICS or Mohan Datwani FCIS FCS(PE), Senior Director, and Head of Technical and Research, HKICS at 2881 6177 or research@hkics.org.hk.

Yours faithfully,

David Fu FCIS FCS(PE)
President
The Hong Kong Institute of Chartered Secretaries