

Investment Agreement between Hong Kong and ASEAN enters into force

A Government spokesman said today (May 16) that those parts relating to Hong Kong and five Association of Southeast Asian Nations (ASEAN) member states, namely Laos, Myanmar, Singapore, Thailand and Vietnam, under the Investment Agreement (IA) between Hong Kong and ASEAN, will enter into force on June 17.

Upon the entry into force of the IA, Laos, Myanmar, Singapore, Thailand and Vietnam will provide Hong Kong enterprises investing in their areas with fair and equitable treatment of their investments, physical protection and security of their investments, and the assurance on the free transfer of their investments and returns. In case of expropriation or investment loss owing to war, armed conflict or similar events, the above-mentioned five ASEAN member states will also provide compensation to Hong Kong enterprises investing in their areas according to the agreed standard as specified under the IA.

Meanwhile, parts relating to two more ASEAN member states under the Free Trade Agreement (FTA) between Hong Kong and ASEAN will enter into force on June 11, namely Laos and Vietnam. The Government earlier announced that parts relating to Hong Kong, Myanmar, Singapore and Thailand will enter into force on that date. In other words, parts relating to Hong Kong and the five ASEAN member states (Laos, Myanmar, Singapore, Thailand and Vietnam) will take effect on June 11.

Upon the implementation of the FTA, Singapore will bind all its customs duties at zero, whereas Laos, Myanmar, Thailand and Vietnam will progressively reduce or eliminate their customs duties on goods originating from Hong Kong. The tariff reduction commitments cover various kinds of Hong Kong commodities including jewellery, articles of apparel and clothing accessories, watches and clocks and toys.

To enjoy the preferential tariff treatment of trade in goods under the FTA, Hong Kong traders need to comply with the relevant preferential rules of origin and fulfil the related requirements. Applications for certificates of origin should be made to the Trade and Industry Department (TID) or Government Approved Certification Organizations of Hong Kong. For details, please refer to the relevant trade circulars issued by the TID at www.tid.gov.hk/english/aboutus/tradecircular/coc/2019/coc2019.html.

On trade in services, upon the implementation of the FTA and in respect of Laos, Myanmar, Singapore, Thailand and Vietnam, Hong Kong service providers will enjoy legally binding market access conditions, and thus benefit from the enhanced business opportunities in a wide range of services sectors. These include services sectors in which Hong Kong has traditional strengths or potential for development, such as professional services,

business services, telecommunications services, construction and related engineering services, educational services, financial services, tourism and travel related services, transport services and arbitration services.

ASEAN comprises 10 member states, namely Brunei Darussalam, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Vietnam. Hong Kong and ASEAN signed the FTA and the IA at the end of 2017. For the texts and the key features of the two agreements, please refer to the website of the TID at www.tid.gov.hk/english/ita/fta/hkasean/index.html.

The dates of entry into force for the remaining five ASEAN member states (Brunei Darussalam, Cambodia, Indonesia, Malaysia and the Philippines) will be announced as soon as they are confirmed.

[LRC releases consultation paper on causing or allowing death or serious harm of a child or vulnerable adult \(with photo\)](#)

The following is issued on behalf of the Law Reform Commission:

A sub-committee of the Law Reform Commission (LRC) released a consultation paper today (May 16) making preliminary proposals for reform of the law relating to the criminal liability of parents, carers and others when children or vulnerable adults die or are seriously harmed as a result of abuse or neglect while in their care. The consultation will last for three months and end on August 16.

The Sub-committee recommends the introduction of a new offence of "failure to protect a child or vulnerable person where the child's or vulnerable person's death or serious harm results from an unlawful act or neglect". The Sub-committee further recommends that the Government should undertake a review of the current maximum penalty applicable under section 27 of the Offences against the Person Ordinance (Cap. 212) (OAPO), with a view to increasing it as appropriate. Some more general observations on matters concerning the protection of children and vulnerable adults which it wishes to bring to the attention of the Government were also set out in the paper.

Speaking at the press conference, the Chairman of the Causing or Allowing the Death of a Child or Vulnerable Adult Sub-committee, Ms Amanda Whitfort, said that, "In family violence and other cases where the victims are children or vulnerable adults, a particular evidential problem can arise

for the prosecution in trying to prove beyond reasonable doubt which of the victim's carers or members of the victim's household committed 'the unlawful act' which was the immediate cause of the victim's death or serious harm. The situation is often further complicated by the suspects' silence, or by their mutual accusations, and by the silence of other family members in their attempts to protect the suspects."

Ms Whitfort said that in determining the content of the reforms recommended in the consultation paper, the Sub-committee carefully considered the law and practice in many other common law jurisdictions. In particular, the Sub-committee has reviewed in detail the significant legislative and judicial developments that have taken place in three jurisdictions – the United Kingdom, South Australia and New Zealand – which each introduced a unique type of criminal offence to deal with these "which of you did it?" cases.

In line with these developments, the Sub-committee recommends the introduction of a new offence of "failure to protect a child or vulnerable person where the child's or vulnerable person's death or serious harm results from an unlawful act or neglect". This offence would impose criminal liability on those who fail to take steps to protect a child (under 16 years of age) or a vulnerable person (over 16 years of age) from death or serious harm in circumstances where:

- * the defendant owed a duty of care to the victim, or was a member of the victim's household and had frequent contact with the victim;
- * the defendant was, or ought to have been, aware of the risk of serious harm to the victim;
- * the defendant's failure to take steps to protect the victim from harm was, in the circumstances, so serious that a criminal penalty is warranted.

In addition to applying in both fatal and non-fatal cases, and to both child and vulnerable adult victims, the Sub-committee intends that the scope of the offence would be wide enough to apply in both domestic and institutional care situations.

The proposed offence carries high maximum penalties for both fatal and non-fatal cases, i.e.:

- * 20 years' imprisonment in cases where the victim dies; and
- * 15 years' imprisonment where the victim suffers serious harm (to cover, for example, cases where although the victim survived their injuries, these were so severe that the victim was left in a permanent vegetative state).

As liability for the proposed offence is based on the defendant's failure to take steps to protect the victim, a key feature of the offence is that it would not be necessary for the prosecution to prove in a particular case whether the defendant was the perpetrator of the harm or a culpable bystander. Nonetheless, the Sub-committee considers that the list of elements which must be proved by the prosecution beyond reasonable doubt before the offence applies represents a high evidentiary threshold for the prosecution

to achieve.

Ms Whitfort added, "At the heart of this reference has been the dilemma of how to achieve a proper balance between protecting the fundamental human rights of vulnerable victims on the one hand, and on the other, protecting the right to a fair trial of those allegedly involved in their death or serious harm. We trust that the offence we propose, which we must emphasise is not targeted at accidents, achieves that balance by targeting the wrongdoers in failing to offer sufficient protection to the victim, rather than resting on the fiction that because both carers were present and it is unclear who committed an offence of murder or manslaughter, for example, that both are therefore guilty of that offence."

Furthermore, the Sub-committee notes that although the maximum sentence for contravention of section 27 of the OAPO (the existing child ill-treatment and neglect offence) was increased from two to 10 years' imprisonment in 1995, this reform appears to have been insufficient for the courts to deal with the severest cases of child abuse. The Sub-committee therefore recommends that the Government should undertake a review on increasing the current maximum penalty applicable under section 27 of the OAPO.

On the Sub-committee's reform proposals overall, Ms Whitfort said, "Those caring for children or vulnerable persons should be held responsible for harm suffered by them if they knew or should have known the victim was suffering abuse and could have taken steps to prevent it, for example, by removing the victim or reporting the abuse to the authorities. It is therefore our hope that the reforms we propose will provide a strong incentive to those living with and/or caring for children and vulnerable adults to ensure that they are adequately protected if they are at risk of harm."

The Sub-committee welcomes views, comments and suggestions on any issues discussed in the consultation paper. All views should be submitted on or before August 16, 2019 to: The Secretary, Causing or Allowing the Death of a Child or Vulnerable Adult Sub-committee, LRC (4/F, Justice Place, East Wing, 18 Lower Albert Road, Central, Hong Kong) by mail, by fax (3918 4096) or by email (hklrc@hkreform.gov.hk).

The consultation paper and the executive summary can be accessed on the website of the LRC at www.hkreform.gov.hk. Hard copies are also available on request from the Secretariat of the LRC at the above address.



[Effective Exchange Rate Index](#)

The effective exchange rate index for the Hong Kong dollar on Thursday, May 16, 2019 is 105.1 (up 0.1 against yesterday's index).

[LegCo Members visit homeless people \(with photos\)](#)

The following is issued on behalf of the Legislative Council Secretariat:

Legislative Council (LegCo) Members visited homeless people in Sham Shui Po last night (May 15) to follow up on issues relating to the provision of assistance for them.

Accompanied by the Assistant Director (Family and Child Welfare) of the Social Welfare Department, Ms [Pang Kit-ling](#), Members visited homeless people at the Tung Chau Street Park to better understand their living conditions. Members then met with the homeless people at the hostel and day centre operated by the Society for Community Organization to learn more about their accommodation needs and inadequate supply of subvented hostel places.

The deputation urged the Government to increase the supply of subvented hostel places and build transitional housing for homeless people.

Members who participated in the visit were Mr [Chu Hoi-dick](#) (Convenor), Mr [Leung Yiu-chung](#), Dr [Fernando Cheung](#), Dr [Cheng Chung-tai](#) and Mr [Kwong Chun-yu](#).



[Temporary traffic arrangements at Gascoigne Road Flyover eastbound from this Saturday](#)

The Transport Department (TD) today (May 16) reminded members of the public that to facilitate road repair works by the Highways Department at the Gascoigne Road Flyover, the section from Waterloo Road to Jordan Road of the Gascoigne Road Flyover eastbound (to Hung Hom direction) will be closed to all vehicular traffic from 11pm this Saturday (May 18) to 6am next Monday (May 20).

Motorists are advised to consider using alternative routes, such as Nathan Road or Waterloo Road, to travel to Hung Hom.

Due to the road closure, the TD anticipates that the traffic in Yau Tsim Mong district towards Hung Hom, including Jordan Road and Ferry Street, will become very congested. Motorists should exercise tolerance and patience when passing through the affected road sections. Appropriate traffic signs will be erected on-site to guide motorists.

Commuters taking public transport services are advised to use railway

services, or bus services via Nathan Road or Waterloo Road to Hung Hom. They are also advised to plan their journey in advance and allow more travelling time to avoid delay.

The TD and the Police will closely monitor the traffic situation and implement appropriate measures whenever necessary. Members of the public are advised to stay alert to the latest traffic news on radio and television. Details of the temporary traffic arrangement have been uploaded to the TD's website (www.td.gov.hk).