

**HONG KONG, CHINA – CHILE  
JOINT STUDY GROUP ON THE  
FEASIBILITY OF A FREE TRADE  
AGREEMENT**

**FINAL REPORT BY  
HONG KONG, CHINA**

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# Hong Kong, China – Chile Joint Study Group on the Feasibility of a Free Trade Agreement (FTA)

## Final Report by Hong Kong, China

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# **1. INTRODUCTION**

## **1.1. Main Characteristics of the Hong Kong, China Economy and Institutional Framework**

### **1.1.1. Macroeconomic Features**

1. Hong Kong, China is recognised as the world's freest economy. The Heritage Foundation has put Hong Kong, China at the top of the list in its Index of Economic Freedom for fifteen consecutive years. Canada's Fraser Institute, in conjunction with institutes from 75 other economies, has also consistently ranked Hong Kong, China as the freest economy in the world in their Annual Report on Economic Freedom of the World. Under the guiding principle of "Big Market, Small Government", the Hong Kong Special Administrative Region (HKSAR) Government has taken an active role to create a conducive environment for business and to facilitate economic development, particularly to enhance Hong Kong, China's competitiveness and to allow the market to function efficiently and effectively.

2. Hong Kong, China is a small open economy. Its economic performance depends much on developments in the global and regional environment. The economy recovered strongly since the latter part of 2003, after being hit by a series of external shocks. During the five years 2004 to 2008, supported by a robust global economy and the fast-growing economy of the mainland of China (the Mainland), the Hong Kong, China economy expanded rapidly at an average annual rate of 6.3%. Over this period, Hong Kong, China's total exports of goods also rose markedly, by an average annual rate of 8.6% in real terms. The unemployment rate averaged at 3.6% in 2008, down from 7.9% in 2003.

3. The headwinds from the global financial crisis, however, led to a moderation in Hong Kong, China's economic growth in 2008. The growth of real GDP slowed from 7.3% year-on-year in the first quarter of 2008 to 4.3% in the second quarter and further to 1.7% in the third quarter. The escalation of the global financial crisis in September 2008, bringing with it the recession in the advanced economies and rapid deterioration of economic conditions in the developing and emerging markets, hit the Hong Kong, China economy further. This resulted in a GDP growth of -2.5% in the fourth quarter of 2008. In summary, economic growth in 2008 was 2.5%. The seasonally adjusted unemployment rate, having fallen to a 10-year low of 3.2% in mid-2008, rose back to 5.0% in the three months ending February 2009. On the other hand, inflationary pressures have been receding. Consumer price inflation, in terms of the Composite Consumer Price Index (CPI), for 2008 was at 4.3%.

4. The near-term outlook for the Hong Kong, China economy inevitably will be affected by the synchronised global economic downturn. With the major advanced economies, including the United States (US), the euro area and Japan, experiencing the worst recessions in decades, and with the export-dependent Asian economies losing quickly their growth momentum, the risk of Hong Kong, China having a recession in 2009 has increased notably.

5. However, the medium and longer term prospects for the Hong Kong, China economy remain bright. Hong Kong, China has sound fundamentals and well-established market institutions, which will ensure a swift recovery once the global economic environment improves. The strategy of leveraging on the fast-developing Mainland economy will continue to pay off and productivity uplift in the restructuring process towards

knowledge-based economy will also contribute to economic growth. The HKSAR Government will continue to strengthen economic co-operation between Hong Kong, China and the Mainland. Indeed, the signing of the Mainland and Hong Kong Closer Economic Partnership Arrangement (CEPA) in mid-2003 was a significant milestone to further enhance the economic links between the two places. The six supplements to CEPA, with the latest one being signed in May 2009, have further increased the business opportunities available to the Hong Kong, China economy.

6. In addition, the ten major infrastructure projects as announced by the HKSAR Government in 2007, once completed, will further facilitate the economic integration between Hong Kong, China and the Mainland, enlarge significantly the production capacity and raise the efficiency of the Hong Kong, China economy. It is also the HKSAR Government's policy to establish stronger links with other emerging market economies for more business opportunities. In sum, the status of Hong Kong, China as an international financial centre and a regional hub for trade, logistic, tourism and business will be further enhanced.

7. Hong Kong, China is a highly externally-oriented economy, with total value of trade in goods and services exceeding 400% of GDP. A credible fixed exchange rate system helps minimise exchange rate risk, benefiting externally-oriented business. A stable Hong Kong dollar is also an important anchor for financial stability, which underpins Hong Kong, China's role as an international financial centre.

8. The primary monetary objective of Hong Kong, China is to maintain currency stability, defined as a stable external exchange value of the currency of Hong Kong, China, in terms of its exchange rate in the foreign exchange market against the US dollar, at around HK\$7.80 to US\$1. The structure of the monetary system is characterised by currency board arrangements, requiring the Hong Kong dollar monetary base to be at least 100 percent backed by, and changes in it to be 100 percent matched by corresponding changes in, US dollar reserves held in the Exchange Fund at the fixed exchange rate of HK\$7.80 to US\$1.

### 1.1.2. Trade Policy Regime: Formulation and Implementation

#### **(A) GENERAL CONSTITUTIONAL AND INSTITUTIONAL FRAMEWORK**

9. The Basic Law is the principal constitutional document governing the HKSAR of the People's Republic of China. The Basic Law stipulates the principle of "one country, two systems"; that is, while being a local administrative region, which comes directly under the Central People's Government of China, the HKSAR enjoys a high degree of autonomy except in foreign affairs and defence, and has been authorised to conduct relevant external affairs, including foreign trade. The previous market-based system and way of life are to be maintained for at least 50 years after 1997, and the HKSAR's courts are endowed with independent judicial power, including that of final adjudication.<sup>1</sup>

10. The HKSAR Government is headed by the Chief Executive, who is appointed by the Central People's Government of China following his/her selection by an Election Committee.<sup>2</sup> The Chief Executive is formally empowered to conduct external and other

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<sup>1</sup> The power of interpretation of the Basic Law is vested in the Standing Committee of the National People's Congress (Basic Law Article 158).

<sup>2</sup> The term of office of the Chief Executive is five years, with a maximum of two terms. The Election Committee responsible for electing the third-term Chief Executive is composed of representatives from four sectors each with 200 members: (1) industrial, commercial, and financial subsectors; (2) the professions;

affairs on behalf of the HKSAR Government, as authorised by the Central People's Government of China; this includes the power to conclude and implement multilateral, regional, and bilateral trade agreements with foreign countries and regions and relevant international organizations. The Chief Executive is accountable to the Central People's Government of China and the HKSAR in accordance with the provisions of the Basic Law. The Chief Executive is advised in policy-making by an Executive Council. The Executive Council has 29 members, comprising 15 Principal Officials appointed under the Political Appointment System and 14 Non-Officials.<sup>3</sup> Principal Officials are the three most senior officials in the executive branch of the Government (i.e. the Chief Secretary for Administration, the Financial Secretary, and the Secretary for Justice) under the Chief Executive, and 12 Directors of Bureaux (also known as Secretaries of Bureaux), all of which are politically appointed; they are assisted by permanent secretaries (who are civil servants) within the respective bureaux.

11. The Legislative Council (LegCo) is the legislature of HKSAR. Under the Basic Law, the LegCo is constituted by election. The specific method of forming the LegCo is prescribed in Annex II of the Basic Law. The composition of the LegCo in the fourth term (i.e. from 1 October 2008 to 30 September 2012) is 60 members, comprising 30 members returned by geographical constituencies through direct elections and 30 members returned by functional constituencies representing various sectors of the community. Under Article 73 of the Basic Law, the LegCo shall exercise the following powers and functions:

- (a) To enact, amend or repeal laws in accordance with the provisions of the Basic Law and legal procedures;
- (b) To examine and approve budgets introduced by the Government;
- (c) To approve taxation and public expenditure;
- (d) To receive and debate the policy addresses of the Chief Executive;
- (e) To raise questions on the work of the Government;
- (f) To debate any issue concerning public interests;
- (g) To endorse the appointment and removal of the judges of the Court of Final Appeal and the Chief Judge of the High Court;
- (h) To receive and handle complaints from Hong Kong residents;
- (i) If a motion initiated jointly by one-fourth of all the members of the LegCo charges the Chief Executive with serious breach of law or dereliction of duty and if he or she refuses to resign, the Council may, after passing a motion for

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(3) labour groups, social, and religious associations; and (4) members of the Legislative Council (LegCo), representatives of district-based organizations, Hong Kong deputies to the National People's Congress (NPC) of the People's Republic of China, and Hong Kong members of the National Committee of the Chinese People's Political Consultative Conference. The members of the Election Committee were returned by elections, with the exception of the ex-officio members (LegCo members and Hong Kong deputies to the NPC), and members from the religious subsector, who were returned by nomination.

<sup>3</sup> As provided for in Article 55 of the Basic Law, members of the Executive Council are appointed from among principal officials of the executive authorities, LegCo members, and public figures; their appointment or removal is decided by the Chief Executive, who chairs the meetings of the Executive Council. Their term of office shall not extend beyond the expiry of the term of office of the Chief Executive who appoints them.

investigation, give a mandate to the Chief Justice of the Court of Final Appeal to form and chair an independent investigation committee. The committee shall be responsible for carrying out the investigation and reporting its findings to the Council. If the committee considers the evidence sufficient to substantiate such charges, the Council may pass a motion of impeachment by a two-thirds majority of all its members and report it to the Central People's Government for decision; and

- (j) To summon, as required when exercising the above-mentioned powers and functions, persons concerned to testify or give evidence.

12. The legal system of the HKSAR is based on the rule of law and the independence of the judiciary, which is headed by the Chief Justice. The courts of justice in Hong Kong, China consists of the Court of Final Appeal, the High Court (comprising the Court of Appeal and the Court of First Instance), the District Court (which includes the Family Court), the Land Tribunal, the Magistrates' Courts (which include the Juvenile Courts), the Coroner's Court, the Labour Tribunal, the Small Claims Tribunal and the Obscene Articles Tribunal. The Court of Final Appeal, which is the highest appellate court in the HKSAR, is headed by the Chief Justice. In 2007, the magistrates' courts processed about 90% of the cases filed at all court levels in the HKSAR.

13. Under the District Administration Scheme, District Councils advise the HKSAR Government on matters affecting the well-being of the people living and working in the districts, and on the provision and use of public facilities and services within the districts. The District Councils can also undertake projects for environmental improvement, community involvement, and for the promotion of recreational and cultural activities within the District. The third term of the 18 District Councils started on 1 January 2008. In addition to the 405 elected members, there are 27 ex officio members (i.e. Rural Committee chairmen in the New Territories) and 102 appointed members, making a total of 534 District Council members. Their term of office is for four years from January 2008.

## **(B) STRUCTURE OF TRADE POLICY FORMULATION**

14. Under the Basic Law, the HKSAR is a separate customs territory; it uses the name "Hong Kong, China" to participate individually in the relevant international organisations and international trade agreements, such as the World Trade Organisation (WTO) Agreements. The Basic Law stipulates that the HKSAR may on its own, using the name "Hong Kong, China", maintain and develop relations and conclude and implement agreements with foreign states and regions and relevant international organisations in the appropriate fields.<sup>4</sup> The Basic Law also stipulates that the HKSAR shall maintain the status of a free port, that it shall pursue a policy of free trade and safeguard the free movement of goods, intangible assets and capital, and that it may issue its own certificates of origin for products in accordance with prevailing rules of origin.

### **(i) Government bureaux and departments**

15. Under the Commerce and Economic Development Bureau, the Commerce, Industry and Tourism Branch is responsible for the formulation and coordination of policies and strategies in relation to the HKSAR's external trade relations, inward investment promotion, and intellectual property protection. It also oversees the development of policies

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<sup>4</sup> Including the economic, trade, financial and monetary, shipping, communications, tourism, cultural, and sports fields.

and programmes for the industrial and trade sectors, including small and medium-sized enterprises (SMEs), as well as the promotion of services sectors. The Branch is assisted by the Trade and Industry Department (TID), Invest Hong Kong, the Customs and Excise Department, and the Intellectual Property Department. It is also supported by a network of economic and trade offices outside Hong Kong, China.

16. The TID is responsible for handling the HKSAR's commercial relations with its trading partners, and for protecting Hong Kong, China's rights and trade interests. TID coordinates the drafting and negotiations of regional and bilateral trade agreements between Hong Kong, China and other economies. It is also responsible for the negotiation of bilateral investment promotion and protection agreement with its trading partners. The department also plays a key role in Hong Kong, China's active participation in the work of the World Trade Organisation, and in implementing trade policies and agreements, including the issuance of certificates of origin, export and import licences and certificates of Hong Kong Service Supplier, as well as providing general support services for the industrial sector and SMEs. Upon the signing of the CEPA in June 2003, the Customs and Excise Department has taken on the responsibility of enforcing the relevant control system to ensure that goods exported under the arrangement meet the relevant rules.

17. Invest Hong Kong, the inward investment promotion agency of the HKSAR Government, is responsible for attracting foreign, the Mainland and Taiwan companies to establish operations in Hong Kong, China; offering solution-oriented facilitation and sector-specific expert guidance to potential investors throughout the investment process, and providing aftercare support services when an operation in Hong Kong, China has been established. It develops proactive inward investment promotion strategies, and promotes the business sectors in which Hong Kong, China has comparative advantages. It also carries out a number of investment promotion activities in respect of different sectors in collaboration with its overseas promotion arms, who are either out-stationed staff operating in the Investment Promotion Unit (IPU) of a Hong Kong Economic and Trade Office or the Beijing Office, or consultants engaged in different strategic locations not covered by the IPUs.

18. A number of statutory bodies are involved in promoting trade and industry at home and abroad, including the Hong Kong Trade Development Council, the Hong Kong Export Credit Insurance Corporation, the Hong Kong Productivity Council, and the Hong Kong Science and Technology Parks Corporation. Their boards are normally composed of government officials and private sector representatives, including from manufacturing and services industries, as well as academics and professionals.

## **(ii) Advisory bodies**

19. Various bodies advise the HKSAR Government in specific areas, including economic matters, education, labour, housing, social welfare, transport, and consumer rights. The main advisory bodies within the purview of the Commerce and Economic Development Bureau include the Trade and Industry Advisory Board, Textiles Advisory Board, and Small and Medium Enterprises Committee.<sup>5</sup> The HKSAR Government consults various chambers of commerce on issues concerning commerce, trade, and industry, whenever necessary.

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<sup>5</sup> For membership lists of these boards, see: <http://www.tid.gov.hk/english/aboutus/advcommittee/tiab.html/>; [/texttab.html/](http://www.tid.gov.hk/english/aboutus/texttab.html/); and [/smec.html](http://www.tid.gov.hk/english/aboutus/smec.html/).

## **(C) TRADE POLICY OBJECTIVES**

20. The HKSAR's broad trade policy objectives are: to promote a free, open, and stable multilateral trading system; to safeguard its rights and fulfil its obligations under multilateral, regional, and bilateral trade and trade-related agreements and arrangements; and to secure, maintain, and improve access for its domestic exports (of services in particular) to foreign markets.

## **(D) TRADE LAWS AND REGULATIONS**

21. The primary rules governing the HKSAR's trade in goods are laid down in the Import and Export Ordinance and its subsidiary legislation, together with other relevant ordinances applicable to specific commodity items. Transparency is a major feature of the Hong Kong, China's legal and institutional setting; legislation, statistics, reports, and studies are widely available at several governmental and non-governmental websites, which are easy to access and regularly updated.

### **1.1.3. Structure and Features of the Market**

22. Hong Kong, China follows the economic principles of free enterprise and free trade. There are no import tariffs, and revenue duties are levied on liquor, tobacco, hydrocarbon oil and methyl alcohol that are imported or manufactured locally for local consumption. There is also a tax payable on first registration of motor vehicles.

23. Except in the very broadest sense, economic planning as such is not practised by the HKSAR Government. Although it provides the infrastructure both through direct services and by co-operation with public utility enterprises, the Government's major role is to provide a suitable and stable framework for commerce and industry to function efficiently and effectively with minimum interference. There is virtually no direct subsidisation of manufacturers in Hong Kong, China.

24. The cornerstone of Hong Kong, China's commercial policy is the rules-based multilateral trading system under the WTO. Given the externally-oriented and open nature of the Hong Kong, China economy, the development of international trade policy in and through the WTO is of vital importance to Hong Kong, China because of its impact on external trade, and the knock-on effect on industry and employment. Hong Kong, China is a member of the WTO, using the name "Hong Kong, China".

### **1.1.4. Banking System and Credit Policies**

#### **(A) BANKING**

25. Hong Kong, China maintains a three-tier system of deposit-taking institutions, namely, licensed banks, restricted licence banks and deposit-taking companies. They are collectively known as authorized institutions (AIs) under the Banking Ordinance. AIs may operate in Hong Kong, China as either locally incorporated companies or branches of foreign banks.

26. Only licensed banks may operate current accounts, and accept deposits of any size and maturity. Restricted licence banks are principally engaged in merchant banking and capital market activities. They may take deposits of any maturity of HK\$500,000 and above. Deposit-taking companies are mostly owned by or, otherwise associated with, licensed banks

and engage in a range of activities, in particular consumer finance. These companies are restricted to taking deposits of HK\$100,000 or above with an original term to maturity of at least three months. Depositors in Hong Kong, China are protected by the Deposit Protection Scheme (DPS). Under DPS, each eligible depositor is entitled to compensation up to a maximum of HK\$100,000 in the event of a bank failure. With a view to better protecting depositors, the Hong Kong Deposit Protection Board is reviewing the coverage and compensation limit of DPS. In response to the global financial crisis, a precautionary full deposit guarantee arrangement was introduced on 14 October 2008. It will remain effective until end 2010, when a decision on whether the measure should be extended will be made in the light of international financial conditions.

27. The three-tier structure enables soundly based institutions which do not qualify for a full banking licence to apply for a restricted banking licence or a deposit-taking company registration so as to enter the local deposit-taking market or to conduct wholesale and investment banking business. The authorisation criteria for licensed banks, restricted licence banks and deposit-taking companies seek to ensure that only fit and proper institutions are entrusted with public deposits. The licensing criteria are subject to periodic reviews to ensure that they reflect the changing needs of the regulatory environment and are consistent with evolving international standards.

28. AIs have to comply with the provisions of the Banking Ordinance which, inter alia, require them to maintain adequate liquidity and capital adequacy ratios; to submit periodic statistical returns to the Hong Kong Monetary Authority (HKMA); to adhere to limitations on loans to any one customer or to directors and employees; and to seek the HKMA's approval for the appointment of directors, chief executives (including their alternatives) and for changes in control. Overseas banks which operate in branch form are not required to hold capital in Hong Kong, China. They are also not subject to capital ratio requirements or to capital-based limits in large exposures under the Banking Ordinance.

29. The legal framework for banking supervision in Hong Kong, China is in line with international standards including the Basel Committee's *Core Principles for Effective Banking Supervision* published in September 1997. The supervisory process follows a risk-based approach which puts emphasis on the evaluation of the quality of AIs internal risk management systems in respect of current and emerging risks they face. The objective is to devise a prudential supervisory system to help preserve the general stability and effective operation of the banking system, but which at the same time provides sufficient flexibility for AIs to take commercial decisions.

## **(B) SECURITIES AND FUTURES**

30. The HKSAR Government's policy towards the securities industry is to provide a favourable environment in the industry and a level playing field for market participants, with adequate regulation to ensure as far as possible, sound business standards and confidence in the institutional framework, but without unnecessary impediments of a bureaucratic or fiscal nature.

31. The advances in technology and globalisation of the financial markets have also intensified the competition between the markets. To strengthen the competitiveness of Hong Kong, China as an international financial centre, the Financial Secretary announced in his Budget Speech in March 1999 a three-pronged reform for the securities and futures market. The reform included enhancing the infrastructure for the market; modernising the market structure through the demutualisation and merger of the two exchanges and their three

associated clearing houses, and modernising and rationalising the legal framework for the regulatory regime.

32. For the market structure reform, the merger of the two exchanges and three clearing houses was completed on 6 March 2000 following the enactment of the enabling legislation, viz the Exchanges and Clearing Houses (Merger) Ordinance, on 24 February 2000. The Hong Kong Exchanges and Clearing Ltd (HKEx) as the merged entity became a listed company on its own stock market on 27 June 2000. HKEx is now one of the top three largest listed exchanges by market capitalisation. As at end 2008, Hong Kong, China's stock market ranked 7th globally and 3rd in Asia in terms of market capitalisation. In terms of equity funds raised through initial public offerings in 2008, we ranked 5th in the world and 2nd in Asia.

33. As regards regulatory reform, the Securities and Futures Ordinance commenced operation on 1 April 2003. The Ordinance consolidated and modernised 10 pre-existing ordinances into a composite piece of legislation governing the securities and futures markets to keep the regulatory regime on a par with international standards and practices. The opportunity was also taken to add new regulatory elements, including the introduction of a single licence for market intermediaries to streamline regulatory arrangements and reduce compliance burden; introduction of new licensing requirements to enhance the quality of intermediary services; establishment of a civil Market Misconduct Tribunal and expansion of the existing criminal route to combat market misconduct; modernising the regime for disclosure of securities interests to enhance market transparency; and instituting a flexible framework for the regulation of automated trading services to facilitate market innovation. The Ordinance provides a more transparent and coherent regulatory regime and strikes a reasonable balance between protecting investors and promoting market development. It has enhanced Hong Kong, China's position as a major international financial centre and the premier capital formation centre for the Mainland. We will continue to improve the quality and competitiveness of our listing regime by considering how best to give statutory backing to certain important listing requirements, having regard to the independent strategic review of the listing regime commissioned by the HKEx, market views and latest market development.

#### **(C) INSURANCE**

34. The Insurance Companies Ordinance provides for the authorisation and prudential supervision, by the Insurance Authority (IA), of all insurers carrying on insurance business in, or from, Hong Kong, China. It is the Government's policy to admit new insurers who are well established, financially sound and well managed. All insurers seeking authorisation from the IA are subject to the same authorisation criteria and all authorised insurers are subject to the same prudential supervision, regardless of their place of incorporation.

#### **(D) MANDATORY PROVIDENT FUND (MPF) SYSTEM**

35. In August 1995, Hong Kong, China took a major step in enacting the Mandatory Provident Fund Schemes Ordinance, which provides the framework for the establishment of a privately managed, mandatory provident fund system. The ordinance was amended in March 1998 and supplemented by subsidiary regulations enacted in April 1998 and May 1999 respectively, setting out the detailed rules governing the operation of the MPF System and exemption of members covered by certain occupational retirement schemes.

36. As contributions are mandatory, the Government has built into the MPF System a multiplicity of measures to ensure that MPF assets are safe and secure. The measures include stringent criteria for the approval of MPF trustees; prudential supervision to ensure

compliance with standards and regulations; smooth and transparent operation of schemes; as well as a compensation fund mechanism to make good losses caused by illegal conduct. The MPF System has been implemented since December 2000. As at the end of December 2008, about 99.8 per cent of employers, 98.0 per cent of the relevant employees and 73.7 per cent of the self-employed persons have participated in MPF schemes. The MPF legislation has been under continual review to enhance the effectiveness and efficiency of the MPF System. Over the years, provisions related to operational and technical issues and investment regulation have been amended. Further amendments to the legislation covering scheme administration and enforcement issues were enacted in 2008. Legislative proposals on increasing employee control over MPF investment are being prepared for introduction to the Legislature in 2009.

37. To enhance transparency and to enable scheme members to make informed investment decisions, the Mandatory Provident Fund Schemes Authority (MPFA) has issued a Code on Disclosure for MPF Investment Funds to improve the disclosure of information on fees and charges and performance of MPF funds, and launched a web-based MPF Fee Comparative Platform to facilitate comparison of fees and charges of MPF funds. A set of Compliance Standards is also in place to assist approved MPF trustees in establishing a rigorous framework for monitoring their compliance with statutory duties and responsibilities.

## **1.2. Trade in Goods**

38. According to the preliminary figures published by the WTO, Hong Kong, China was the world's 8<sup>th</sup> largest trading entity in 2008 in terms of value of merchandise trade<sup>6</sup>. It was also the world's 7<sup>th</sup> largest importer and 8<sup>th</sup> largest exporter.

39. Supported by strong performance of the global and regional economic environment, the value of Hong Kong, China's merchandise trade<sup>7</sup> grew from HK\$3,548 billion (US\$456 billion) in 2003 to HK\$5,849 billion (US\$751 billion) in 2008. Re-exports remained the key driver in overall trade with the vibrant trade flows of the Mainland.

### **1.2.1. Composition of Trade in Goods**

40. In 2008, electrical machinery, apparatus and appliances, and electrical parts thereof accounted for the largest share (25%) by value of total exports of goods, followed by telecommunications and sound recording and reproducing apparatus and equipment (17%), and office machines and automatic data processing machines (10%).

41. Imports and re-exports of electronic products have continued to increase. In terms of domestic exports, textiles and clothing, which are no longer covered by quota arrangements in major markets (since end 2004), while remains the largest category of domestic exports, accounting for 38.9% of domestic merchandise exports in 2007, down from 57.3% in 2003; and its share further shrank to 28.0% in 2008. Electronic products, the second largest domestic export category, rose to 18.7% in 2008. Jewellery, goldsmith's and silversmith's ware also rose over the years. This reflected the ongoing shift of Hong Kong, China's goods trade to high value-added products over time (Chart I.1).

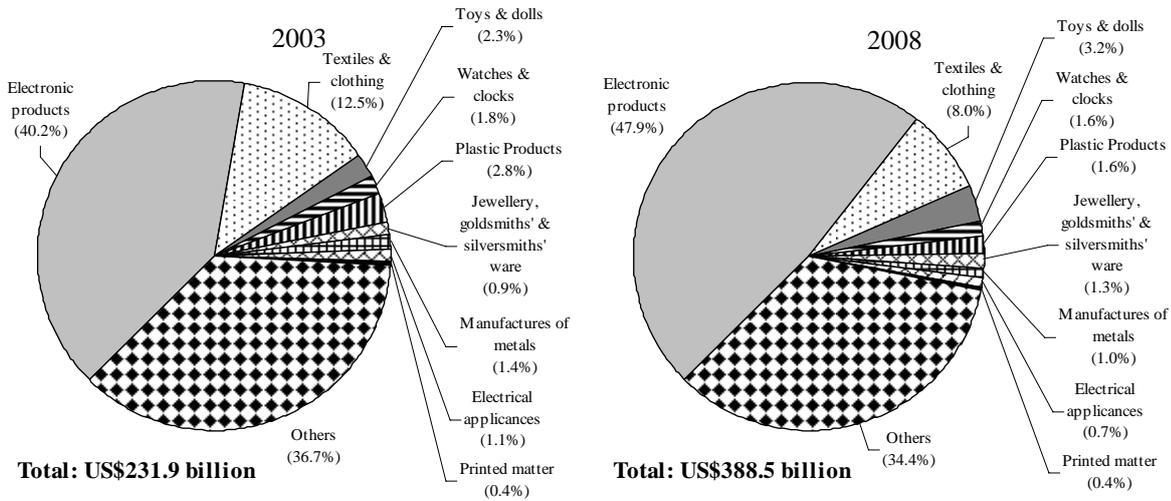
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<sup>6</sup> EU is counted as one trading entity.

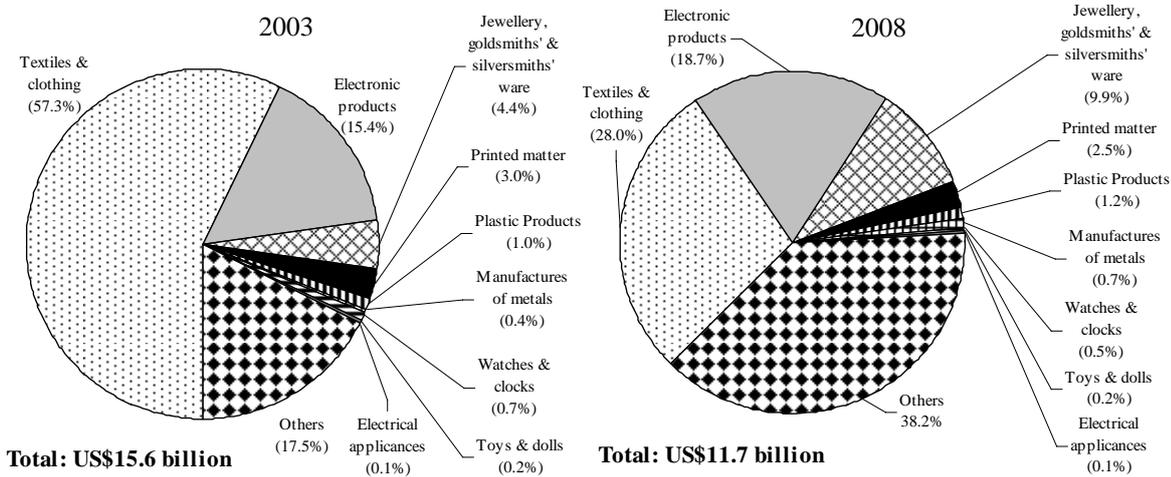
<sup>7</sup> Total merchandise trade comprises imports, re-exports and domestic exports.

**Chart I.1**  
**Composition of Hong Kong, China's Imports, Domestic Exports and Re-exports for 2003 and 2008**

**Imports**

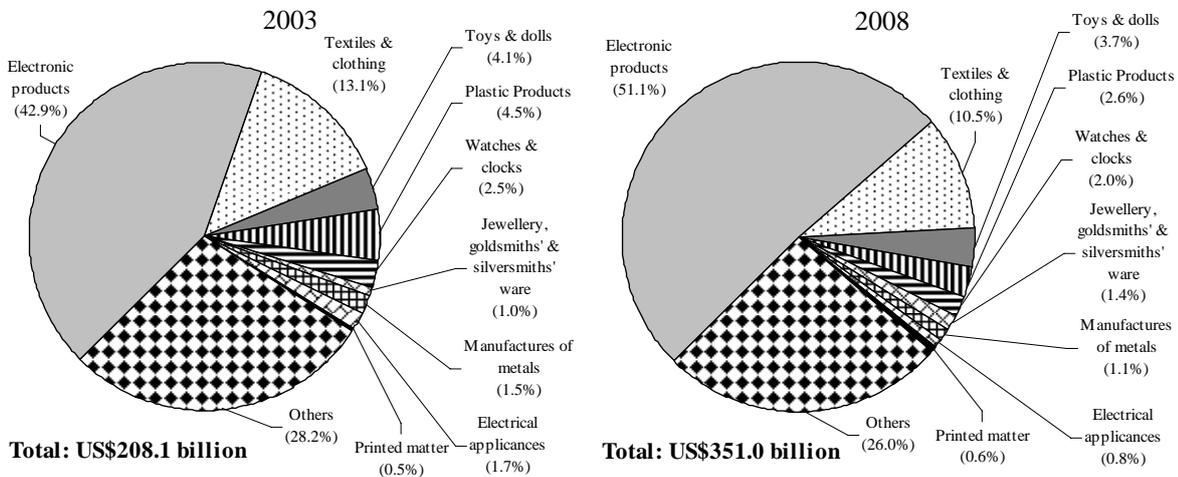


**Domestic Exports**



**Chart I.1 (cont'd)**

**Re-exports**



### 1.2.2. Origin and Destination of Trade in Goods

42. Hong Kong, China's largest trading partner was the Mainland, which accounted for a 47.5% share by value of total merchandise trade in 2008. This was followed by the European Union (EU) and the US, which accounted for 10.5% and 8.7% respectively.

43. Total merchandise trade between the Mainland and Hong Kong, China increased from HK\$1,807 billion in 2004 to HK\$2,781.2 billion in 2008. Principal export items in 2008 to the Mainland included 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. In the same year, electrical machinery, apparatus and appliances, and electrical parts thereof; telecommunications and sound recording and reproducing apparatus and equipment; office machines and automatic data processing machines; clothing; and toys, games and sporting goods were principal imports from the Mainland.

44. Total merchandise trade between the EU and Hong Kong, China increased from HK\$448.4 billion in 2004 to HK\$614.8 billion in 2008<sup>8</sup>. Principal export items in 2008 to the EU included clothing; telecommunications and sound recording and reproducing apparatus and equipment; electrical machinery, apparatus and appliances, and electrical parts thereof; and toys, games and sporting goods. In the same year, electrical machinery, apparatus and appliances, and electrical parts thereof; power generating machinery and equipment; pearls, precious and semi-precious stones; telecommunications and sound recording and reproducing apparatus and equipment; and road vehicles were principal imports from the EU.

45. Total merchandise trade between the US and Hong Kong, China increased from HK\$454 billion in 2004 to HK\$510 billion in 2008. Principal export items in 2008 to the US included clothing; telecommunications and sound recording and reproducing apparatus and equipment; electrical machinery, apparatus and appliances, and electrical parts thereof; and toys, games and sporting goods. In the same year, electrical machinery, apparatus and appliances, and electrical parts thereof; office machines and automatic data processing machines; pearls, precious and semi-precious stones; and telecommunications and sound recording and reproducing apparatus and equipment were principal imports from the US.

## 1.3. Trade in Services

46. According to the preliminary figures published by the WTO, Hong Kong, China was the world's 9<sup>th</sup> largest services trading entity in 2008<sup>9</sup>. It was also the world's 6<sup>th</sup> largest services exporter and the world's 13<sup>th</sup> largest services importer.

47. Hong Kong, China's services sector is among the most developed in East Asia. During 1990-2007, value-added of the services sector rose at an average annual rate of 7.7% to HK\$1,429.1 billion (US\$183.2 billion), faster than the average annual growth of 6.3% in nominal GDP. The share of the services sector in GDP thus rose further, from 75% in 1990 to 92% in 2007. Among the major service sectors, financing, insurance, real estate and

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<sup>8</sup> The EU expanded from 25 to 27 Member States after Bulgaria and Romania joined the Union on 1 January 2007. As such, 2004 trade figures cover EU-25 (i.e. excluding Bulgaria and Romania) while 2008 trade figures cover EU-27.

<sup>9</sup> EU is counted as one trading entity.

business services; and community, social and personal services had the fastest growth, with value-added rising by annual averages of 9.1% and 7.6% respectively. In absolute size, the financing, insurance, real estate and business services was the largest sector among the service sectors, accounting for 29.3% of GDP in 2007.

48. The ratio of Hong Kong, China's exports of services to GDP is significant by international standards. In 2007, Hong Kong, China exported HK\$652.2 billion (US\$83.6 billion) worth of services, bearing a ratio of 40.3% to GDP.

49. Hong Kong, China's exports of services comprise mainly merchanting and other trade-related services, transportation services and travel services, which accounted for 31%, 29% and 16% respectively of the total value in 2007. Exports of financial services took up 15% of the total value in the same year, and exports of insurance services and other services accounted for 9%.

50. Hong Kong, China is a net exporter of services in overall terms with an overall surplus of HK\$330 billion (US\$42.3 billion) in 2007. Analysed by major service group, the largest surplus was recorded in merchanting and other trade-related services, at HK\$177.9 billion (US\$22.8 billion) or 54% as ratio to the overall surplus. This was followed by transportation services, at HK\$86.6 billion (US\$11.1 billion) or 26%, and financial services, at HK\$78.8 billion (US\$10.1 billion) or 24%. This suggests that Hong Kong, China does have a strong edge as a services exporter in the region.

## **1.4. Investment**

51. Hong Kong, China is a major destination for foreign direct investment (FDI) in Asia. According to the World Investment Report 2008 released by the United Nations Conference on Trade and Development (UNCTAD), Hong Kong, China ranked seventh in the world in FDI inflows in 2007, and was also the second largest recipient of FDI in Asia, after the Mainland. The figure of Hong Kong, China's FDI inflow in 2007 was HK\$423.9 billion (US\$54.3 billion), grew by 21% over 2006. The Mainland was Hong Kong, China's largest source of FDI. By the end of 2007, the Mainland had invested an accumulated total of HK\$3,737.4 billion (US\$479.1 billion) in Hong Kong, China, accounting for 41% of the total. Hong Kong, China was classified in the UNCTAD Report as an economy with high FDI performance and high FDI potential.

52. There was remarkable growth in FDI inflows and outflows in recent years. The three major groups of economic activities persistently ranked at the top for inward FDI over the past few years, in terms of both the total stock and flow are services industries, namely: investment holding, real estate and various business services; banks and deposit-taking companies; and wholesale, retail and import/export trades (Tables I.1 and I.2). The most important investors in the HKSAR are the British Virgin Islands and the Mainland, accounting respectively for 25.8% and 24.6% of total FDI inflow in 2007.

53. The Mainland is the largest recipient of Hong Kong, China's direct investment outflows (Table I.3). In terms of cumulative amount on approval basis, the HKSAR was the largest investor in the Mainland, and was among the leading investors in Indonesia, Chinese Taipei, Thailand, Viet Nam, and the Philippines.

**Table I.1**  
**Position, Flow and Income of Direct Investment of Hong Kong, China**

HK\$ billion

Year	Inward direct investment		Outward direct investment	
	Position at end of year (at market value)	Inflow	Position at end of year (at market value)	Outflow
1998	1,743.5	114.4	1,733.6	131.6
1999	3,149.3	190.7	2,499.4	150.2
2000	3,550.8	482.6	3,027.8	462.6
2001	3,269.7	185.4	2,749.2	88.5
2002	2,622.3	75.5	2,412.9	136.2
2003	2,960.4	106.3	2,636.7	42.9
2004	3,521.9	265.1	3,133.6	356.1
2005	4,056.3	261.5	3,653.9	211.5
2006	5,771.9	350.0	5,264.5	349.4
2007	9,186.5	423.9	7,889.0	476.5

**Table I.2**  
**Position and Flow of Inward Direct Investment of Hong Kong, China by Major Economic Activity of Hong Kong Enterprise Groups**

HK\$ billion

Economic Activity	Position at end of year (at market value)									
	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
<b>Total</b>	<b>1,743.5</b>	<b>3,149.3</b>	<b>3,550.8</b>	<b>3,269.7</b>	<b>2,622.3</b>	<b>2,960.4</b>	<b>3,521.9</b>	<b>4,056.3</b>	<b>5,771.9</b>	<b>9,186.5</b>
Investment holding, real estate & various business services	590.9	1,650.8	2,145.9	1,805.5	1,367.0	1,646.3	1,987.8	2,410.3	3,785.9	6,765.8
Banks and deposit-taking companies	214.8	297.0	326.1	365.3	325.4	414.6	481.2	510.0	643.0	810.7
Wholesale, retail and import/export trades	332.0	366.8	376.0	406.5	341.4	408.8	516.5	556.0	622.5	697.9
Transport and related services	66.1	71.2	73.5	96.6	78.2	69.3	74.5	101.3	145.2	263.0
Financial institutions other than banks and deposit-taking companies	77.2	129.3	131.8	110.9	90.7	108.8	148.9	155.9	204.3	205.9
Construction	39.3	41.2	45.3	42.4	36.8	28.5	24.5	35.1	62.9	109.0
Insurance	31.8	54.7	61.1	70.1	85.9	71.0	80.4	74.7	89.6	89.9
Manufacturing	85.3	99.9	76.1	73.0	72.8	64.7	68.7	70.5	68.0	77.5
Communications	123.0	242.1	59.2	80.6	69.0	44.8	39.0	43.5	45.2	41.2
Restaurants and hotels	57.1	50.5	47.6	44.4	43.1	28.8	35.6	25.8	31.7	30.3
Other activities	126.0	145.7	208.2	174.3	112.0	74.9	64.8	73.2	73.7	95.3

Table I.2 (cont'd)

Economic Activity	Inflow in year									
	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
<b>Total</b>	<b>114.4</b>	<b>190.7</b>	<b>482.6</b>	<b>185.4</b>	<b>75.5</b>	<b>106.3</b>	<b>265.1</b>	<b>261.5</b>	<b>350.0</b>	<b>423.9</b>
Investment holding, real estate & various business services	41.0	58.2	326.8	60.5	83.3	41.6	105.1	113.9	145.1	204.7
Banks and deposit-taking companies	24.9	47.2	34.8	42.8	-33.1	17.6	34.6	44.5	45.9	72.3
Wholesale, retail and import/export trades	12.6	19.9	62.8	33.5	29.4	45.2	49.5	39.7	73.0	70.8
Transport and related services	3.4	3.9	12.1	2.6	2.4	-7.9	10.7	13.1	19.8	17.5
Financial institutions other than banks and deposit-taking companies	1.5	14.7	20.3	5.7	-15.0	3.2	38.6	14.4	34.9	28.8
Construction	3.4	4.2	4.6	5.0	-1.0	1.6	-0.6	1.6	5.0	10.1
Insurance	2.2	5.9	3.9	4.0	14.2	7.9	6.5	9.8	7.3	1.7
Manufacturing	8.0	15.5	5.0	2.1	10.0	5.4	13.6	7.4	11.0	6.7
Communications	8.2	-0.4	-1.0	37.1	-20.7	-6.3	2.6	7.5	2.6	0.5
Restaurants and hotels	4.2	1.3	3.7	-3.3	1.0	-4.4	1.4	0.3	1.5	2.4
Other activities	4.9	20.2	9.5	-4.7	5.1	2.4	3.3	9.4	3.9	8.4

Notes :

- Individual figures may not add up exactly to the total due to rounding.
- A Hong Kong Enterprise Group (HKEG) mainly consists of a Hong Kong parent company, its Hong Kong subsidiaries, associates and branches.
- Economic activity here refers to the major activity of the whole enterprise group in Hong Kong, China. As a HKEG may be engaged in a wide variety of activities, the economic activity is determined on the basis of the principal line of business of the group.
- Negative inflow does not necessarily relate to equity withdrawal. It may be the result of repayment of loans to non-resident affiliates.

Source : Survey of External Claims, Liabilities and Income of the Census and Statistics Department, HKSAR. 23 December 2008

**Table I.3**  
**Position, Flow and Income of Outward Direct Investment of Hong Kong, China by Major Recipient Country/Territory**

HK\$ billion

Major recipient country/territory	Position at end of year (at market value)									
	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
<b>Total</b>	<b>1,733.6</b>	<b>2,499.4</b>	<b>3,027.8</b>	<b>2,749.2</b>	<b>2,412.9</b>	<b>2,636.7</b>	<b>3,133.6</b>	<b>3,653.9</b>	<b>5,264.5</b>	<b>7,889.0</b>
British Virgin Islands	720.2	1,395.6	1,569.4	1,437.0	1,148.3	1,270.3	1,402.1	1,609.3	2,467.6	3,773.7
The Mainland	547.7	620.6	1,011.6	844.0	843.0	931.2	1,211.6	1,477.4	2,117.2	3,423.7
Bermuda	92.1	93.2	88.9	91.9	76.8	88.4	129.7	126.1	137.8	133.0
United Kingdom	56.3	25.9	23.4	20.6	20.5	47.3	55.3	59.6	62.1	73.5
Singapore	15.5	18.6	25.8	24.5	26.0	30.0	34.2	40.0	33.1	56.9
Cayman Islands	97.9	86.1	71.1	82.6	27.9	10.3	7.1	25.1	41.1	50.1
Liberia	@	@	@	@	@	@	@	22.3	23.3	41.0
Thailand	9.5	12.7	15.6	20.6	20.8	21.6	24.8	23.0	34.7	38.3
Malaysia	4.6	13.0	20.2	28.7	27.9	24.2	22.2	21.6	25.6	34.7
United States of America	20.1	22.5	24.3	24.8	32.2	20.4	22.6	26.3	29.1	30.6
Others	169.7	211.2	177.5	174.4	189.6	192.9	224.1	223.2	292.9	233.6

Table I.3 (cont'd)

Major recipient country/territory	Outflow in year									
	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
<b>Total</b>	<b>131.6</b>	<b>150.2</b>	<b>462.6</b>	<b>88.5</b>	<b>136.2</b>	<b>42.9</b>	<b>356.1</b>	<b>211.5</b>	<b>349.4</b>	<b>476.5</b>
British Virgin Islands	57.4	33.1	70.5	25.4	10.1	24.8	136.8	18.1	78.0	103.9
The Mainland	54.1	78.6	361.2	66.3	124.3	59.9	144.8	130.3	166.6	283.9
Bermuda	2.3	6.0	12.6	-19.2	-4.9	-2.8	26.7	12.5	-5.0	16.2
United Kingdom	3.8	-23.1	4.6	0.9	3.6	4.6	4.9	4.9	-0.2	12.1
Singapore	-8.4	3.8	3.6	4.2	4.3	2.1	4.5	6.0	2.1	18.4
Cayman Islands	8.4	1.4	-6.1	-2.4	-10.2	-23.1	-1.3	14.8	7.9	29.4
Liberia	@	@	@	@	@	@	@	-1.1	2.5	5.3
Thailand	2.4	1.6	0.9	2.2	2.6	-0.7	3.2	2.6	6.4	-0.2
Malaysia	-0.4	2.2	3.0	6.3	5.0	-2.8	1.5	#	3.9	4.0
United States of America	1.4	1.2	2.9	-2.0	7.2	-9.4	3.1	0.9	3.1	4.1
Others	10.5	45.2	9.5	6.8	-5.9	-9.8	32.0	22.5	84.1	-0.7

Notes :

1. Individual figures may not add up exactly to the total due to rounding.
2. Country/territory here refers to the immediate destination economy. It does not necessarily reflect the country/territory in which the funds are ultimately used.
3. Negative outflow does not necessarily relate to equity withdrawal. It may be the result of repayment of loans by non-resident affiliates.
4. @ Detailed country/territory classification has been adopted in the compilation of external DI statistics since 2005. Therefore, separate figures for this country prior to 2005 are not available.
5. # Within ±HK\$0.05 billion.

Source : Survey of External Claims, Liabilities and Income of the Census and Statistics Department, HKSAR.

## 1.5. Introduction of FTAs Negotiated by Each Party

54. Hong Kong, China considers that free trade agreements (FTAs) which are fully WTO-consistent should help promote the cause of eventual global trade liberalisation. We are positive towards more liberalised trade arrangements which are WTO-plus and will actively consider pursuing these arrangements with other economies. So far, we have concluded a CEPA with the Mainland and have been discussing a Closer Economic Partnership (CEP) Agreement with New Zealand.

### (A) HONG KONG, CHINA/NEW ZEALAND CLOSER ECONOMIC PARTNERSHIP AGREEMENT (HKC/NZ CEP)

55. In May 2001, Hong Kong, China started the first FTA negotiation with New Zealand for a CEP Agreement. Negotiations were suspended in 2002 due to some technical differences. Building on informal contacts since then, both sides now reach agreement to resume formal talks with the first round of meetings planned to be held in early May 2009.

56. The CEP, when concluded, will encompass a wide-ranging scope, with emphasis on trade and investment liberalisation and facilitation, including:

- (a) early elimination of tariffs on all goods of Hong Kong, China and New Zealand origin;
- (b) a set of forward-looking rules of origin which could encourage bilateral trade;
- (c) liberalisation of potentially distortive instruments in bilateral trade, such as safeguards, anti-dumping and subsidies measures;

- (d) liberalisation and promotion of bilateral investment; and
- (e) liberalisation of trade in services.

**(B) CLOSER ECONOMIC PARTNERSHIP ARRANGEMENT (CEPA)**

**1.5.1. Modalities of Negotiation**

57. Discussions on the CEPA came to fruition when it was signed on 29 June 2003. CEPA is the first FTA ever concluded by the Mainland and Hong Kong, China. Following the full implementation of the main text and the six annexes of CEPA<sup>10</sup> on 1 January 2004, the two sides have reached agreement on six Supplements regarding further trade liberalisation measures from 2004 to 2009<sup>11</sup>, which came into implementation on 1 January 2005, 1 January 2006, 1 January 2007, 1 January 2008, 1 January 2009 and 1 October 2009 respectively. The legal text of CEPA and its Supplements are available on the designated CEPA website of the TID at [http://www.tid.gov.hk/english/cepa/legaltext/cepa\\_legaltext.html](http://www.tid.gov.hk/english/cepa/legaltext/cepa_legaltext.html).

58. CEPA adopts a building block approach and provides a convenient platform for Hong Kong, China and the Mainland to pursue new trade and investment facilitation and liberalisation initiatives. In fulfilment of the pertinent objectives of CEPA, both sides seek to:

- (a) apply zero tariff to the merchandise of the other party;
- (b) progressively reduce or eliminate existing restrictive measures applicable to service suppliers of the other party; and
- (c) promote cooperation in nine designated areas to facilitate trade and investment flows between both sides<sup>12</sup>.

59. Under CEPA, effective from 1 January 2006, all products of Hong Kong, China origin (except for some prohibited articles) enjoy tariff free treatment for import into the Mainland upon fulfilment of the CEPA rules of origin. On the services front, Hong Kong, China service suppliers in 42 service areas enjoy WTO-plus preferential market access treatment in the Mainland. CEPA also enhances co-operation of both parties in tourism promotion, mutual recognition of professional qualifications and exchange of professional talents, as well as strengthens co-operation and information sharing in the areas of banking, securities and insurance.

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<sup>10</sup> The main text of CEPA was signed on 29 June 2003 and its six Annexes on 29 September 2003 in Hong Kong.

<sup>11</sup> Between 2004 and 2008, the two sides signed six Supplements to CEPA in Hong Kong:

- Supplement to CEPA: 27 October 2004
- Supplement II to CEPA: 18 October 2005
- Supplement III to CEPA: 27 June 2006
- Supplement IV to CEPA: 29 June 2007
- Supplement V to CEPA: 29 July 2008
- Supplement VI to CEPA: 9 May 2009

<sup>12</sup> CEPA promotes cooperation between both sides in trade and investment promotion; customs clearance facilitation; commodity inspection and quarantine, food safety and quality and standardisation; electronic business; transparency in laws and regulations; co-operation of small and medium enterprises; co-operation in Chinese traditional medicine industry; protection of intellectual property and co-operation on branding.

## **2. ECONOMIC RELATIONS BETWEEN HONG KONG, CHINA AND CHILE**

### **2.1. Bilateral Trade in Goods**

60. In 2008, Chile ranked 46<sup>th</sup> among Hong Kong, China's worldwide trading partners and 4<sup>th</sup> among Hong Kong, China's trading partners in Central and Southern Americas. It accounted for HK\$4,621.8 million (or 0.1% of our total trade) in 2008, and grew from HK\$3,485 million in 2003, representing an average annual growth rate of 5.0% during the period. Hong Kong, China recorded a trade surplus of HK\$1,333.5 million with Chile in the same year (Table II.1).

**Table II.1**  
Summary of Hong Kong, China's Trade in Goods with Chile

	Value in million				
	Domestic Exports	Re-exports	Imports	Total Trade	Balance of Trade
<b>2003</b>	HK\$36.0	HK\$2,118.0	HK\$1,330.8	HK\$3,484.8	HK\$823.2
<b>Year-on-year Growth (%)</b>	13.3	-11.1	14.1	-2.7	-34.0
<b>2004</b>	HK\$36.9	HK\$2,399.9	HK\$1,486.7	HK\$3,923.5	HK\$950.0
<b>Year-on-year Growth (%)</b>	2.4	13.3	11.7	12.6	15.4
<b>2005</b>	HK\$43.8	HK\$2,494.8	HK\$1,281.6	HK\$3,820.1	HK\$1,257.0
<b>Year-on-year Growth (%)</b>	18.8	4.0	-13.8	-2.6	32.3
<b>2006</b>	HK\$81.3	HK\$2,987.7	HK\$1,311.6	HK\$4,380.5	HK\$1,757.4
<b>Year-on-year Growth (%)</b>	85.6	19.8	2.3	14.7	39.8
<b>2007</b>	HK\$46.6	HK\$3,075.7	HK\$1,297.3	HK\$4,419.6	HK\$1,825.0
<b>Year-on-year Growth (%)</b>	-42.7	2.9	-1.1	0.9	3.8
<b>2008</b>	HK\$60.6	HK\$2,917.1	HK\$1,644.1	HK\$4,621.8	HK\$1,333.5
<b>Year-on-year Growth (%)</b>	30.1	-5.2	26.7	4.6	-26.9

#### **2.1.1. Exports**

61. The value of total Hong Kong, China's merchandise exports to Chile grew from HK\$2,154 million in 2003 to HK\$2,978 million in 2008, representing an average annual growth rate of 6.7% during the period (Table II.1).

62. In 2008, Chile ranked 44<sup>th</sup> among Hong Kong, China's domestic export markets and the value of total domestic exports increased markedly by 30.1% over 2007. The increase was mainly attributed to the growth in domestic exports of telecommunications and sound recording and reproducing apparatus and equipment (44.1%) and office machines and automatic data processing machines (3,379.6%). The average annual growth rate in domestic exports was 15.7% from 2003 to 2008 (Tables II.1 and II.2).

63. In 2008, Hong Kong, China's major domestic exports to Chile included telecommunications and sound recording and reproducing apparatus and equipment (63.4% of Hong Kong, China's total domestic exports to Chile); office machines and automatic data processing machines (12.9%); articles of apparel and clothing accessories (7.6%);

non-ferrous metals (4.1%); and musical instruments and parts and accessories thereof, records, tapes and other sound or similar recordings<sup>13</sup> (4.0%) (Table II. 2 and Chart II.1).

64. During the 2003-2008 period, telecommunications and sound recording and reproducing apparatus and equipment had a substantial increase in the value shares of Hong Kong, China's total domestic exports to Chile (from 0.1% to 63.4%). On the other hand, considerable decrease in the value shares of Hong Kong, China's total domestic exports to Chile was noted in articles of apparel and clothing accessories (from 40.7% to 7.6%) and musical instruments and parts and accessories thereof, records, tapes and other sound or similar recordings<sup>13</sup> (from 28.4% to 4.0%) (Table II.2).

**Table II.2**  
**Major domestic exports items to Chile, 2003-2008**

Value in million

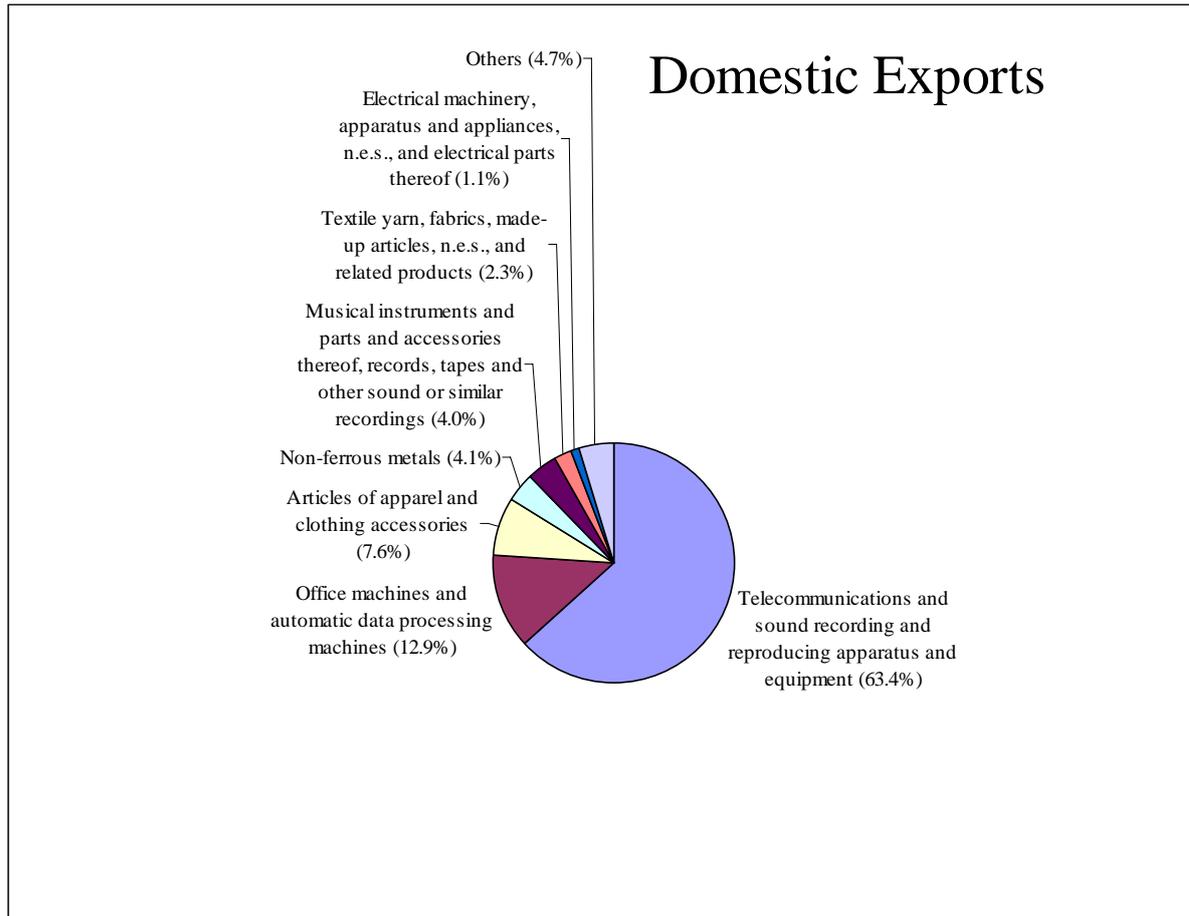
	2003	Year-on-year Growth (%)	2004	Year-on-year Growth (%)	2005	Year-on-year Growth (%)	2006	Year-on-year Growth (%)	2007	Year-on-year Growth (%)	2008	Year-on-year Growth (%)
<b>Telecommunications and sound recording and reproducing apparatus and equipment</b>	HK\$0.1 [0.1%]	-	HK\$0.3 [0.9%]	545.5	HK\$0 [0%]	-100.0	HK\$0.7 [0.8%]	-	HK\$26.7 [57.3%]	3,808.2	HK\$38.4 [63.4%]	44.1
<b>Office machines and automatic data processing machines</b>	HK\$6.8 [18.9%]	7,211.5	HK\$5.7 [15.4%]	-16.9	HK\$15.0 [34.3%]	165.7	HK\$26.3 [32.4%]	75.2	HK\$0.2 [0.5%]	-99.1	HK\$7.8 [12.9%]	3,379.6
<b>Articles of apparel and clothing accessories</b>	HK\$14.6 [40.7%]	-43.5	HK\$8.2 [22.4%]	-43.7	HK\$9.9 [22.6%]	19.9	HK\$5.9 [7.2%]	-40.6	HK\$5.9 [12.7%]	0.4	HK\$4.6 [7.6%]	-22.3
<b>Non-ferrous metals</b>	HK\$0.3 [1.0%]	-	HK\$0.7 [2.0%]	109.8	HK\$0 [0%]	-100.0	HK\$0 [0%]	0	HK\$0.5 [1.2%]	-	HK\$2.5 [4.1%]	362.3
<b>Musical instruments and parts and accessories thereof, records, tapes and other sound or similar recordings<sup>13</sup></b>	HK\$10.2 [28.4%]	1,143.9	HK\$17.4 [47.3%]	70.4	HK\$9.4 [21.4%]	-46.3	HK\$41.3 [50.7%]	340.4	HK\$10.7 [23.0%]	-74.0	HK\$2.4 [4.0%]	-77.5
<b>Electrical machinery, apparatus and appliances, n.e.s., and electrical parts thereof</b>	HK\$1.9 [5.3%]	145.0	HK\$1.1 [3.0%]	-41.6	HK\$4.3 [9.8%]	284.5	HK\$2.8 [3.4%]	-34.5	HK\$0.1 [0.1%]	-97.7	HK\$0.6 [1.1%]	886.5
<b>Textile yarn, fabrics, made-up articles, n.e.s., and related products</b>	HK\$0.5 [1.3%]	63.3	HK\$0.1 [0.2%]	-86.3	HK\$2.0 [4.6%]	2,987.4	HK\$0.004 [0.005%]	-99.8	HK\$0 [0%]	-100.0	HK\$1.4 [2.3%]	-
<b>Others</b>	HK\$1.5 [4.3%]	-60.6	HK\$3.3 [8.9%]	112.4	HK\$3.2 [7.3%]	-1.9	HK\$4.3 [5.3%]	35.0	HK\$2.5 [5.3%]	-43.3	HK\$2.8 [4.7%]	15.7
<b>Total domestic exports</b>	HK\$36.0 [100.0%]	13.3	HK\$36.9 [100.0%]	2.4	HK\$43.8 [100.0%]	18.8	HK\$81.3 [100.0%]	85.6	HK\$46.6 [100.0%]	-42.7	HK\$60.6 [100.0%]	30.1

Note: % in square brackets are the value shares of Hong Kong, China's total domestic exports to Chile.

<sup>13</sup> Excluding sound recording or reproducing apparatus; video recording or reproducing apparatus (whether or not incorporating a video tuner); and cinematographic film (exposed and developed, whether or not incorporating soundtrack or consisting only of soundtrack).

## Chart II.1

### Composition of Hong Kong, China's domestic exports to Chile in 2008



65. In 2008, Chile was Hong Kong, China's 45<sup>th</sup>-ranking re-export market and the value of total re-exports decreased by 5.2% over 2007. The decrease was mainly attributed to the decrease in re-exports of telecommunications and sound recording and reproducing apparatus and equipment (-8.4%), office machines and automatic data processing machines (-7.1%), and baby carriages, toys, games and sporting goods (-21.9%). The average annual growth rate in re-exports was 5.8% from 2003 to 2008 (Tables II.1 and II.3).

66. In 2008, major re-exports to Chile included telecommunications and sound recording and reproducing apparatus and equipment (29.0% of Hong Kong, China's total re-exports to Chile); articles of apparel and clothing accessories (18.5%); office machines and automatic data processing machines (11.5%); footwear (11.2%); and baby carriages, toys, games and sporting goods (6.3%) (Table II.3 and Chart II.2).

67. During the 2003-2008 period, substantial increase in the value shares of Hong Kong, China's total re-exports to Chile was noted in telecommunications and sound recording and reproducing apparatus and equipment (from 19.9% to 29.0%) and office machines and automatic data processing machines (from 3.6% to 11.5%). On the other hand, decrease in the value shares of Hong Kong, China's total re-exports to Chile was noted in articles of apparel and clothing accessories (from 22.8% to 18.5%) and baby carriages, toys, games and sporting goods (from 13.2% to 6.3%) (Table II.3).

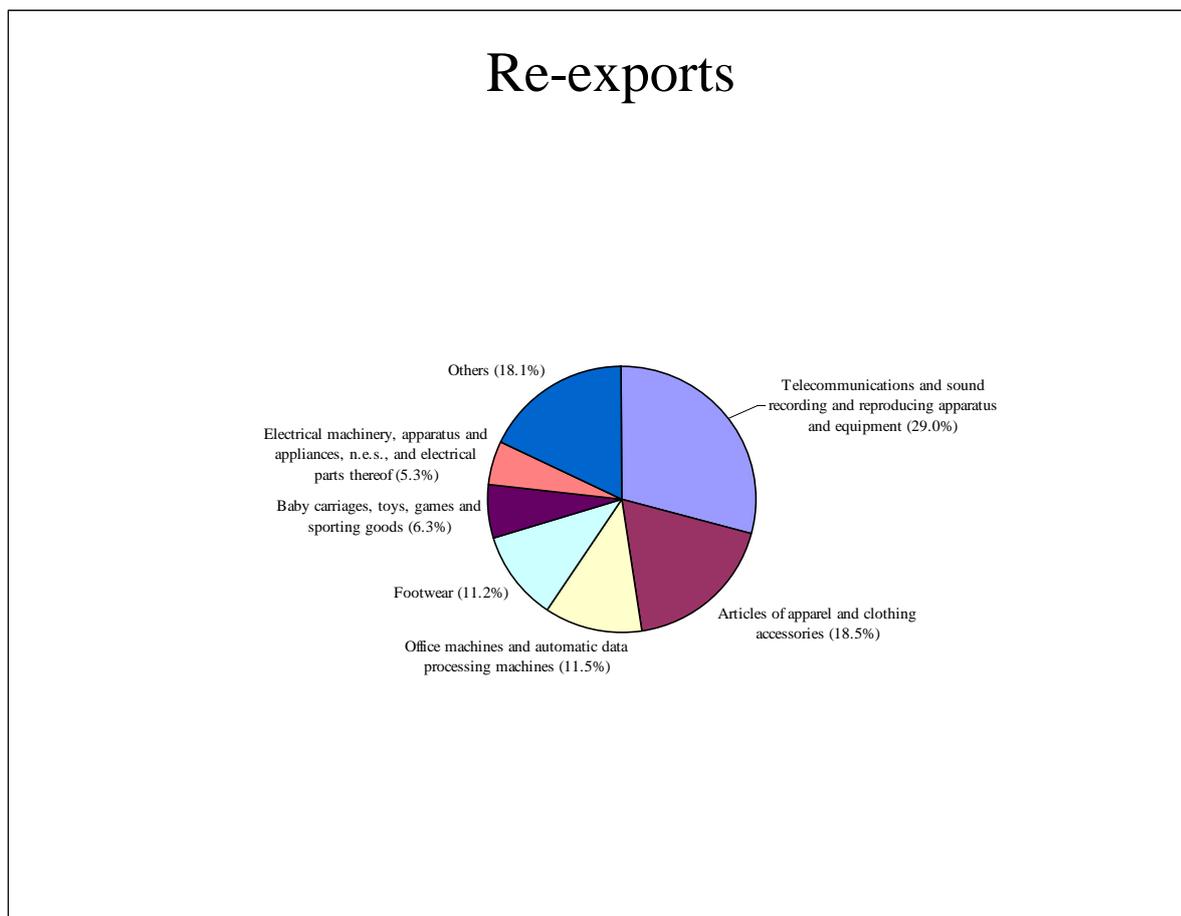
**Table II.3**  
Major re-exports items to Chile, 2003-2008

Value in million

	2003	Year-on-year Growth (%)	2004	Year-on-year Growth (%)	2005	Year-on-year Growth (%)	2006	Year-on-year Growth (%)	2007	Year-on-year Growth (%)	2008	Year-on-year Growth (%)
<b>Telecommunications and sound recording and reproducing apparatus and equipment</b>	HK\$420.8 [19.9%]	7.0	HK\$606.5 [25.3%]	44.1	HK\$636.1 [25.5%]	4.9	HK\$909.1 [30.4%]	42.9	HK\$922.7 [30.0%]	1.5	HK\$844.8 [29.0%]	-8.4
<b>Articles of apparel and clothing accessories</b>	HK\$482.1 [22.8%]	-22.8	HK\$540.5 [22.5%]	12.1	HK\$512.6 [20.5%]	-5.2	HK\$507.5 [17.0%]	-1.0	HK\$554.4 [18.0%]	9.2	HK\$540.6 [18.5%]	-2.5
<b>Office machines and automatic data processing machines</b>	HK\$77.3 [3.6%]	0	HK\$72.3 [3.0%]	-6.5	HK\$136.9 [5.5%]	89.5	HK\$313.6 [10.5%]	129.0	HK\$361.8 [11.8%]	15.4	HK\$336.1 [11.5%]	-7.1
<b>Footwear</b>	HK\$206.9 [9.8%]	-25.9	HK\$249.1 [10.4%]	20.4	HK\$252.1 [10.1%]	1.2	HK\$254.4 [8.5%]	0.9	HK\$291.8 [9.5%]	14.7	HK\$326.8 [11.2%]	12.0
<b>Baby carriages, toys, games and sporting goods</b>	HK\$278.6 [13.2%]	-9.8	HK\$278.2 [11.6%]	-0.1	HK\$268.2 [10.7%]	-3.6	HK\$261.3 [8.7%]	-2.5	HK\$236.9 [7.7%]	-9.4	HK\$184.9 [6.3%]	-21.9
<b>Electrical machinery, apparatus and appliances, n.e.s., and electrical parts thereof</b>	HK\$154.1 [7.3%]	-12.2	HK\$157.8 [6.6%]	2.4	HK\$145.9 [5.9%]	-7.5	HK\$163.1 [5.5%]	11.8	HK\$137.2 [4.5%]	-15.9	HK\$154.6 [5.3%]	12.7
<b>Others</b>	HK\$498.3 [23.5%]	-4.7	HK\$495.6 [20.6%]	-0.5	HK\$543.0 [21.8%]	9.6	HK\$578.5 [19.4%]	6.5	HK\$570.9 [18.6%]	-1.3	HK\$529.2 [18.1%]	-7.3
<b>Total re-exports</b>	HK\$2,118.0 [100.0%]	-11.1	HK\$2,399.9 [100.0%]	13.3	HK\$2,494.8 [100.0%]	4.0	HK\$2,987.7 [100.0%]	19.8	HK\$3,075.7 [100.0%]	2.9	HK\$2,917.1 [100.0%]	-5.2

Note: % in square brackets are the value shares of Hong Kong, China's total re-exports to Chile.

**Chart II.2**  
Composition of Hong Kong, China's re-exports to Chile in 2008



## 2.1.2. Imports

68. The value of total Hong Kong, China's merchandise imports from Chile grew from HK\$1,331 million in 2003 to HK\$1,644 million in 2008, representing an average annual growth rate of 4.3% during the period (Table II.1).

69. In terms of sources of imports for Hong Kong, China, Chile ranked 42<sup>nd</sup>, accounting for 0.05% of the total import value. In 2008, the value of total imports increased noticeably by 26.7% over 2007, which was mainly attributed to the growth in imports of various products, including vegetables and fruit (34.5%), meat and meat preparations (76.9%), beverages (35%), and metalliferous ores and metal scrap (524.5%) (Tables II.1 and II.4).

70. In 2008, major imports from Chile included vegetables and fruit (55.5% of Hong Kong, China's total imports from Chile); meat and meat preparations (15.8%); fish (not marine mammals), crustaceans, molluscs and aquatic invertebrates, and preparations thereof (12.4%); beverages (5.5%); and metalliferous ores and metal scrap (2.6%) (Table II.4 and Chart II.3).

71. During the 2003-2008 period, there was a substantial increase in the value shares of Hong Kong, China's total imports from Chile in vegetables and fruit (from 34.2% to 55.5%) and meat and meat preparations (from 4.7% to 15.8%). On the other hand, substantial decrease in the value shares of Hong Kong, China's total imports from Chile was noted in non-ferrous metals (from 37.5% to 0.4%) (Table II.4).

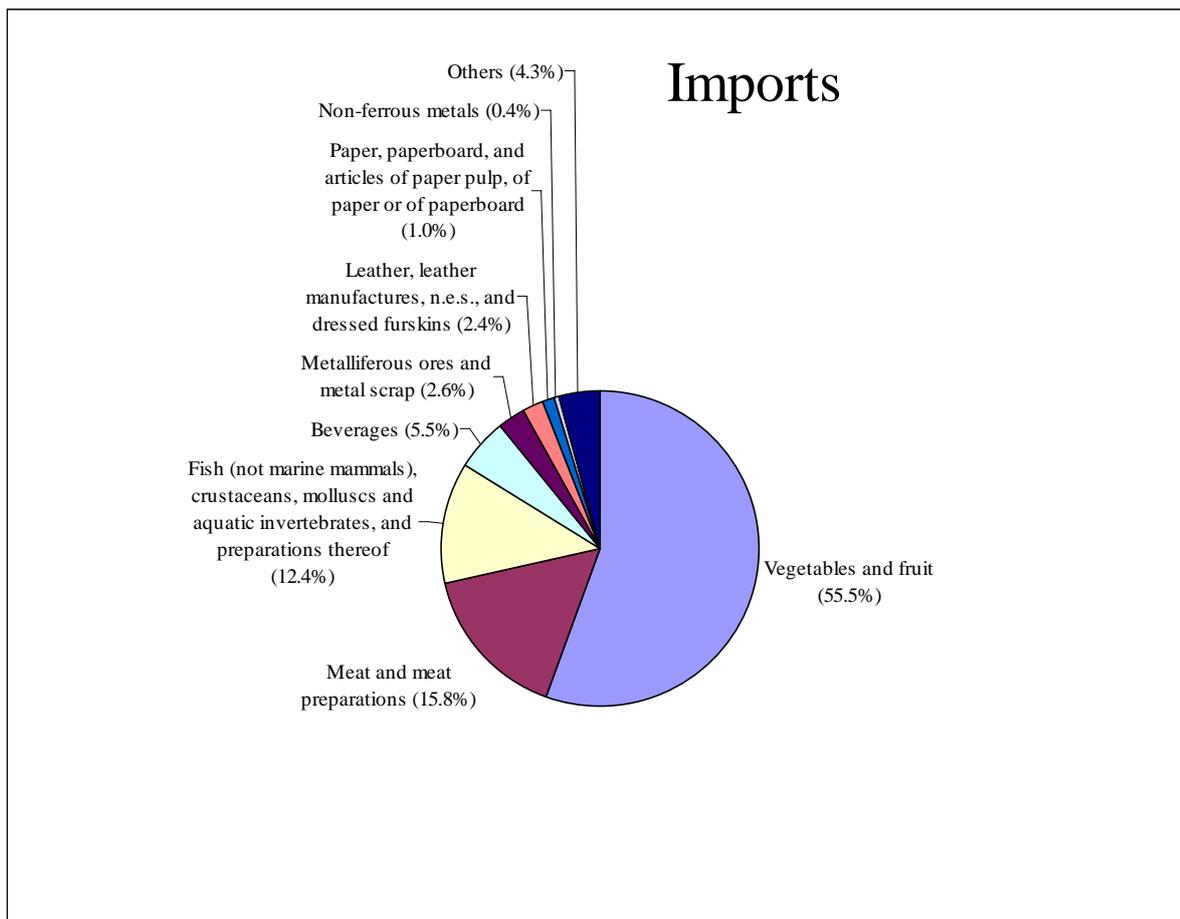
**Table II.4**  
Major imports items from Chile, 2003-2008

	Value in million											
	2003	Year-on-year Growth (%)	2004	Year-on-year Growth (%)	2005	Year-on-year Growth (%)	2006	Year-on-year Growth (%)	2007	Year-on-year Growth (%)	2008	Year-on-year Growth (%)
<b>Vegetables and fruit</b>	HK\$454.6 [34.2%]	-0.9	HK\$464.5 [31.2%]	2.2	HK\$404.6 [31.6%]	-12.9	HK\$574.0 [43.8%]	41.9	HK\$678.5 [52.3%]	18.2	HK\$912.3 [55.5%]	34.5
<b>Meat and meat preparations</b>	HK\$62.5 [4.7%]	33.9	HK\$92.8 [6.2%]	48.6	HK\$98.4 [7.7%]	6.0	HK\$141.0 [10.8%]	43.3	HK\$147.1 [11.3%]	4.3	HK\$260.2 [15.8%]	76.9
<b>Fish (not marine mammals), crustaceans, molluscs and aquatic invertebrates, and preparations thereof</b>	HK\$188.5 [14.2%]	28.4	HK\$246.7 [16.6%]	30.9	HK\$173.4 [13.5%]	-29.7	HK\$178.7 [13.6%]	3.0	HK\$161.6 [12.5%]	-9.6	HK\$203.6 [12.4%]	26.0
<b>Beverages</b>	HK\$25.6 [1.9%]	11.5	HK\$30.8 [2.1%]	20.3	HK\$42.8 [3.3%]	39.2	HK\$51.4 [3.9%]	20.0	HK\$67.2 [5.2%]	30.8	HK\$90.8 [5.5%]	35.0
<b>Metalliferous ores and metal scrap</b>	HK\$0.2 [0.01%]	-97.2	HK\$2.8 [0.2%]	1,404.6	HK\$21.8 [1.7%]	678.5	HK\$14.0 [1.1%]	-35.8	HK\$6.8 [0.5%]	-51.5	HK\$42.4 [2.6%]	524.5
<b>Non-ferrous metals</b>	HK\$498.8 [37.5%]	35.2	HK\$583.0 [39.2%]	16.9	HK\$453.2 [35.4%]	-22.3	HK\$246.8 [18.8%]	-45.5	HK\$109.6 [8.5%]	-55.6	HK\$6.8 [0.4%]	-93.8
<b>Leather, leather manufactures, n.e.s., and dressed furskins</b>	HK\$13.2 [1.0%]	4.9	HK\$10.5 [0.7%]	-20.4	HK\$29.5 [2.3%]	181.4	HK\$51.7 [3.9%]	75.4	HK\$56.6 [4.4%]	9.4	HK\$39.5 [2.4%]	-30.1
<b>Paper, paperboard, and articles of paper pulp, of paper or of paperboard</b>	HK\$42.4 [3.2%]	-26.6	HK\$31.3 [2.1%]	-26.3	HK\$20.1 [1.6%]	-35.7	HK\$0.8 [0.1%]	-95.9	HK\$5.3 [0.4%]	536.3	HK\$17.1 [1.0%]	222.8
<b>Others</b>	HK\$45.1 [3.4%]	-0.9	HK\$24.4 [1.6%]	-45.8	HK\$37.8 [2.9%]	54.7	HK\$53.2 [4.1%]	41.0	HK\$64.6 [5.0%]	21.4	HK\$71.5 [4.3%]	10.6
<b>Total imports</b>	HK\$1,330.8 [100.0%]	14.1	HK\$1,486.7 [100.0%]	11.7	HK\$1,281.6 (US\$164.8) [100.0%]	-13.8	HK\$1,311.6 (US\$168.8) [100.0%]	2.3	HK\$1,297.3 (US\$166.3) [100.0%]	-1.1	HK\$1,644.1 (US\$210.8) [100.0%]	26.7

Note: % in square brackets are the value shares of Hong Kong, China's total imports from Chile.

**Chart II.3**

**Composition of Hong Kong, China's imports from Chile in 2008**



## **2.2. Bilateral Trade in Services**

72. Unfortunately, official statistics on the bilateral trade in services between Hong Kong, China and Chile are only available for year 2003, but not the other years. In 2003, Hong Kong, China's exports of services to Chile amounted to HK\$287 million. It comprised mainly merchanting and other trade-related services and transportation services, which accounted for 50.9% and 44.6% respectively. In the same year, imports of services from Chile amounted to HK\$82 million. Of which, almost 99% were merchanting and other trade-related services.

## **2.3. Bilateral Investments**

73. Similarly, official statistics on the bilateral investment flows between Hong Kong, China and Chile are not available. That said, Chilean businesses have established presence in Hong Kong, China and are visible in various sectors such as import and export, banking and maritime transportation. Major Chilean companies in Hong Kong, China include CCNI Hong Kong, CSAV Group, Banco de Credito e Inversiones S.A. etc.

### **3. TRADE AND INVESTMENT POLICIES**

#### **3.1. Introduction**

74. Hong Kong, China's trade policy objectives are to promote a free, open and stable multilateral trading system; to safeguard our rights and fulfil our obligations under multilateral, regional, and bilateral trade and trade-related agreements and arrangements; and to secure, maintain and improve access for our exports.

75. Active participation in the multilateral trading system through our separate membership in the WTO is the cornerstone of Hong Kong, China's external trade policy. Such participation is guided by two objectives: firstly, to sustain the momentum of progressive global trade liberalisation; and secondly, to strengthen and update the rules-based multilateral trading system so that it continuously provides an effective framework to promote trade expansion and liberalisation, as well as to protect Hong Kong, China against arbitrary and discriminatory actions.

#### **3.2. Measures affecting Trade in Goods**

##### **3.2.1. Tariffs**

###### **(A) GENERAL FEATURES**

76. No tariffs or other import taxes are applied to imports entering Hong Kong, China.

77. Hong Kong, China implemented the HS2007 nomenclature on 1 January 2007. The revised tariff schedule of commitments for the implementation of HS2007 has been submitted to the WTO Secretariat for its transposition.

###### **(B) MFN TARIFF BINDINGS**

78. Since the Uruguay Round and the implementation of the Information Technology Agreement (ITA), Hong Kong, China has made additional unilateral concessions. As a result of the introduction of the HS2007 nomenclature and the annual changes of our HS list in 2008, the number of bound tariff lines (at the 8-digit level) increased from 3,011 (42.8% of all tariff lines) in 2006 to 3,122 (some 44.9% of all tariff lines) in 2008. Hong Kong, China bound all agricultural products (WTO definition) in the Uruguay Round at zero. As of 2008, tariff bindings covered 36.1% of non-agricultural goods; all tariffs that are bound are at zero rates (Table III.1). Hong Kong, China is participating actively in the multilateral negotiations of non-agricultural market access to seek market access improvements through substantial and early reduction or elimination of tariffs.

**Table III.1**  
**Hong Kong China's Bound tariff lines as a percentage of all lines in 2008**

Item	2008 (%)
<b>All goods</b>	<b>44.93</b>
Agriculture excluding Fish	100
Fish and Fish products	100
Petroleum Oil	0
Wood, Pulp, Paper and Furniture	93.60
Textiles and Clothing	5.74
Leather, Rubber, Footwear and Travel Goods	37.34
Metals	75.70
Chemical & Photographic Supplies	10.11
Transport Equipment	11.60
Non-electric Machinery	29.29
Electric Machinery	53.83
Mineral Products, Precious Stones & Metals	54.38
Manufactured Articles, n.e.s.	57.05

Note: According to Hong Kong China's 2008 HS Classification for Imports

79. Hong Kong, China does not maintain tariff quotas.

### 3.2.2. Non-tariff Measures

#### (A) OTHER CHARGES AFFECTING IMPORTS

80. Excise duties are levied on liquor, tobacco, hydrocarbon oil, and methyl alcohol that are imported or manufactured locally for local consumption (Table III.2). The duty rate on wine and liquor with an alcoholic strength of not more than 30% by volume as well as that on Euro V diesel have been reduced to zero since February and July 2008 respectively. The duty for tobacco was raised in February 2009 for public health reasons. The duty rates for the remaining dutiable commodities have remained unchanged since March 2001. For tobacco, hydrocarbon oil, and methyl alcohol, duties are charged at specific rates, while alcoholic liquor is subject to *ad valorem* duty according to the value of the goods.<sup>14</sup> Duties are payable at the point of importation or when the dutiable goods leave the local manufacturer. Excise duty collection as a percentage of total tax revenue dropped from 5.6% in 2001-02 to 3.2% in 2007-08. In 2007, 48.7% of the duties collected came from hydrocarbon oil, 40.2% from tobacco, 10.9% from liquor, and 0.2% from methyl alcohol and other products containing methyl alcohol.

<sup>14</sup> Duty rates are prescribed in the Schedule to the Dutiable Commodities Ordinance (Chapter 109, Laws of Hong Kong).

**Table III.2**  
**Excise duties, 2001 and 2008**

Commodity	2001	2009
	(on or after 7.03.01)	
	(Per cent)	
Type of liquor <sup>a</sup>		
Liquor with an alcoholic strength of more than 30% by volume measured at a temperature of 20°C	100	100
Liquor, other than wine, with an alcoholic strength of not more than 30% by volume measured at a temperature of 20°C	40	0
Wine	60	0
	(Hong Kong dollar)	
Tobacco		
Per 1,000 cigarettes	804	1206
Cigars	1,035/kg.	1,553/kg.
Chinese prepared tobacco	197/kg.	296/kg.
All other manufactured tobacco except tobacco intended for the manufacture of cigarettes	974/kg.	1,461/kg.
Hydrocarbon oil		
Aircraft spirit	6.51/litre	6.51/litre
Light diesel oil	2.89/litre	2.89/litre
Motor spirit (unleaded petrol)	6.06/litre	6.06/litre
Motor spirit (leaded petrol)	..	6.82/litre
Ultra low sulphur diesel	1.11/litre	1.11/litre
Euro V Diesel <sup>b</sup>	..	0/litre
Methyl alcohol and any admixture containing methyl alcohol	HK\$840/hectolitre measured at a temperature of 20°C; plus HK\$28.10/hectolitre for every 1% by which the alcoholic strength by volume exceeds 30%.	

Notes :

.. Not available.

a Where there is no or insufficient information available to determine the value of imported liquor of less than 12 litres, the Commissioner of Customs and Excise (or authorised officer) may assess the duty payable at a rate of HK\$160 per litre. For quantities exceeding 12 litres, the transaction value of the goods will be used as the primary basis for determining value. If the transaction value cannot be established, the transaction value of an identical or similar good will be used.

b A concessionary duty rate at HK\$0.56/litre was offered to Euro V diesel from 1 December 2007 to 13 July 2008. The duty rate was further reduced to HK\$0/litre with effect from 14 July 2008.

Source: Customs and Excise Department. Available at: [http://www.customs.gov.hk/eng/major\\_dutiable\\_freepor\\_t\\_e.html#liq](http://www.customs.gov.hk/eng/major_dutiable_freepor_t_e.html#liq).

81. Tax on the first registration of motor vehicles, administered by the Transport Department, is in place.<sup>15</sup> Rates are *ad valorem*, and vary according to the vehicle's value and class (e.g. private car, light bus, bus, etc.); they were last revised in June 2003. In general, the tax is levied on the vehicle's published retail price. If there is no published price (e.g. home delivery vehicle), the tax is assessed on the purchase price plus insurance and freight, plus any handling charges for delivery of the vehicle to the HKSAR owner, and any other costs necessary for the vehicle to meet first registration requirements. Tax rates now range from 3.7% for taxis, buses and light buses, etc. to at least 35% for private cars and van type light goods vehicles not exceeding 1.9 tonnes.<sup>16</sup> In addition, tax exemption/concession

<sup>15</sup> Motor Vehicles (First Registration Tax) Ordinance (Chapter 330, Laws of Hong Kong).

<sup>16</sup> Tax rates escalate on the basis of the vehicle value. For example, a rate of 35% is charged for private car for the first HK\$150,000 of its taxable value, 65% for next HK\$150,000, 85% for next HK\$200,000, and 100% for the balance (i.e. for taxable value over HK\$500,000). The taxable value of a vehicle is calculated on the basis of its published retail price or the provisional taxable value assessed by the Customs and Excise Department.

is granted for electric vehicles and environment-friendly petrol private cars and environment-friendly commercial vehicles.<sup>17</sup>

**(B) CUSTOMS VALUATION**

82. Since no customs duties or fees are levied on imports, there are no general laws, regulations, or administrative procedures for valuing goods for customs purposes.<sup>18</sup> The value of goods for the purpose of assessing the *ad valorem* excise duties is determined in accordance with the WTO Customs Valuation Agreement. Valuation method used is stipulated in Section 26A of the Dutiable Commodities Ordinance. For imported and domestically produced liquor, the ex-factory price is the basis for assessing the duty.

**(C) IMPORT PROHIBITIONS, LICENSING, AND RESTRICTIONS**

83. Hong Kong, China applies import restrictions to ensure security, protect the environment and public health, and comply with international obligations, including United Nations Security Council resolutions and international conventions.

**(i) Import prohibitions**

84. In accordance with decision of the United Nations Security Council, import of rough diamonds from Côte d'Ivoire is prohibited.

85. In general, imports of all ozone-depleting substances (ODS) are prohibited or controlled with import and export licences. Methyl bromide can only be imported and used in Hong Kong, China for quarantine and pre-shipment applications, which are exempted uses under the Montreal Protocol.

86. Products containing volatile organic compounds (VOC) such as paints, printing inks, hairsprays, air fresheners, insecticides, etc., must meet specified VOC limits before they are allowed to be imported or manufactured for local use.

87. Under the Air Pollution Control Ordinance, the imports of amosite and crocidolite (two forms of asbestos) are prohibited.

88. Except for uncontaminated waste listed in the Schedule 6 to the Waste Disposal Ordinance for recycling or reuse purposes, imports of waste into Hong Kong, China require a waste import permit. In line with the Basel Ban under the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (Basel Convention), the Ordinance has been amended to ban the imports of controlled wastes listed in Schedule 7 to the Waste Disposal Ordinance from member countries of the EC, the OECD, and Liechtenstein since April 2006.

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<sup>17</sup> (a) Electric vehicles which are propelled solely by electric power and do not emit any exhaust gas are exempted from paying first registration tax from 1994 to end of March 2012.

(b) The first registration tax on environment-friendly petrol private cars is reduced by 30%, subject to a cap of HK\$50,000 per car, since 1 April 2007.

(c) The first registration tax on environment-friendly commercial vehicles is reduced with varying degree of tax waiver, subject to a certain amount of cap limit on the basis of vehicle-class-specific caps per vehicle, since 1 April 2008.

<sup>18</sup> WTO document G/VAL/N/1/HKG/1, 31 January 1996.

**(ii) Import licensing**

89. Hong Kong, China's import licensing regime is mainly in place for health, safety, environmental, and security reasons, and also to maintain a stable supply of rice and manage a reserve stock, ensure the collection of excise duties, and enforce intellectual property rights.

90. Hong Kong, China maintains a comprehensive and effective control system on the import, export, transshipment, and for certain sensitive items, transit of strategic commodities. The control system serves to prevent Hong Kong, China from being used as a conduit for proliferation, and to secure our continued access to high-tech goods and technology that are essential for our economic development. Items subject to licensing control are listed in the Schedules to the Import and Export (Strategic Commodities) Regulations. The control list mirrors those adopted by various international export control regimes and conventions (i.e. Wassenaar Arrangement, Nuclear Suppliers Group, Zangger Committee established under Nuclear Non-Proliferation Treaty, Missile Technology Control Regime, Australia Group and Chemical Weapons Convention). It is updated from time to time in order to reflect the changes made by the international control regimes. The latest amendment of the control list which took effect in February 2009 reflects changes made to regimes' control lists up to end 2007. Controlled strategic commodities include munitions items, chemical and biological weapons and their precursors, nuclear materials and equipment, and industrial dual-use goods, etc. End-use control is also imposed on products which are used in connection with the development of weapons of mass destruction.

91. As a staple food in Hong Kong, China, rice is a reserved commodity under the Reserved Commodities Ordinance. Under the Ordinance, the Government operates the Rice Control Scheme to ensure a stable supply of rice and to keep a reserve stock at all times sufficient for about 15 days' consumption by the local population. To monitor the supply and the stock, imports and exports of rice are subject to licensing requirements. Licences for rice imported for local consumption are issued only to companies registered as stockholders, who share the responsibility of maintaining the reserve stock.

**(iii) Import restrictions**

92. Imports of hydrochlorofluorocarbons (HCFCs) for local consumption (i.e. not for re-export), are subject to a quantitative restriction system most recently revised in January 2004. This is to ensure that the amount used for local consumption does not exceed levels agreed under the Montreal Protocol on Substances that Deplete the Ozone Layer. The quota size is determined on a twelve-month basis. Part of the quota (normal quotas) is allocated automatically to importers, based on past performance; the remainder (free quotas) is allocated on a first-come, first-served basis. Licences are issued to registered companies for each consignment. In the case of imports for re-export, which are not subject to quotas, import and export licences are issued at the same time and goods must be exported within the validity period of the export licences. Unless listed as "no consent" in the Prior Informed Consent Circular (PIC Circular) of the Rotterdam Convention, import of chemicals listed in Annex 3 of the Rotterdam Convention is allowed subject to a permit system.

93. The Rice Control Scheme was liberalised since 1 January 2003; this has eliminated the rice import quota system, removed entry barriers, reduced operation costs, and enhanced competition among operators in the local rice trade. Nevertheless, rice remains subject to import licensing procedures. The Government only maintains minimum control (i.e. a registration and licensing system) to ensure a stable supply of rice, and to keep a reserve stock to cater for emergencies or any short-term shortage.

### 3.2.3. Import Customs Procedures

#### (A) **REGISTRATION AND DOCUMENTATION REQUIREMENTS**

94. Under the Import and Export (Registration) Regulations, an import declaration must be lodged electronically with the Customs and Excise Department within 14 days of a consignment's import, except for exempted articles.<sup>19</sup> Shipping documents, such as commercial invoices, bills of lading/airway bill, packing lists, etc. are considered helpful in expediting the clearance of shipments. Other documents, such as import licences, permits, sanitary and phytosanitary certificates may also be required, depending on the goods shipped.<sup>20</sup> A unified road cargo manifest, jointly designed by Hong Kong Customs and the Mainland Customs, was put on trial for 12 months on 1 January 2004 and implemented formally as from 1 January 2005.

95. Over the past years, Hong Kong, China has taken steps to facilitate trade by simplifying and reducing trade procedures through, *inter alia*, the introduction of electronic customs clearance and documentation procedures. Electronic submission of trade documents via the Government Electronic Trading Services (GETS)<sup>21</sup> has been made mandatory for trade declarations, certificate of origin, dutiable commodities permits and cargo manifest for air, water and rail mode of transport. Traders are required to submit electronic trade documents to Hong Kong Customs through appointed service providers. Currently, there are two appointed service providers. To enhance competition, the Government has appointed the third GETS provider for the period from 2010 to 2016. For efficient clearance of road cargoes, Hong Kong, China plans to introduce an electronic advance cargo information system for customs clearance of road cargoes in 2009/10. The requirement to submit such information will be made mandatory after a transitional period of 18 months. With the implementation of the system, Hong Kong Customs will be able to introduce one-stop customs clearance arrangement to further facilitate the passage of transshipment cargoes which involves inter-modal transfer.

96. The 1980 Open Bond System (OBS) for breweries and hydrocarbon oil was extended to all dutiable commodities stored at bonded warehouses, tobacco factories, distilleries, and liquor manufacturers with effect from January 2004. All bonded warehouses storing dutiable goods now operate without full-time Customs supervision<sup>22</sup>; the system aims to facilitate trade in such ways by lowering traders' operating and compliance costs and allowing more flexibility in procedures affecting business operations.

97. In January 2004, the licensing control on the import, export or transshipment of nine out of 31 categories of articles subject to licensing was relaxed or simplified following the

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<sup>19</sup> Exempted articles are stipulated in regulation 3 of the Import and Export (Registration) Regulations.

<sup>20</sup> If transhipped through Hong Kong, China by air, some goods (such as dutiable commodities, pharmaceutical products and medicines, left-hand drive vehicles, marine fish, meat and animal products, optical disc mastering and replication equipment, outboard engines, ozone-depleting substances, pesticides, radio communication transmitting apparatus, rice, food materials such as colouring matter and preservatives, and smokeless tobacco products) are exempt from licensing control within the restricted area of the airport (Air Cargo Transshipment (Facilitation) Ordinance 2000, 26 May 2000).

<sup>21</sup> GETS refers to the front end services of collecting data electronically from traders and carriers, confirming their identity, validating such data, and transmitting data to the Government. Available at: <http://www.cedb.gov.hk/citb/ehtml/gets.html>.

<sup>22</sup> Supervision of vanning and devanning of dutiable goods and bond operations is conducted on a selective basis. Traders are only required to pay fees covering costs for Customs attendance on the destruction of dutiable goods.

implementation of the Import and Export (Facilitation) Ordinance 2003.<sup>23</sup> This change does not affect the fulfilment of Hong Kong, China's responsibilities in respect of international obligations, public health and safety, anti-smuggling, and protection of public revenue.

98. Shipments of suspected strategic commodities remain subject to physical examination, as well as to verification of the information provided in the import licence applications.<sup>24</sup> Verifications are conducted by authorised officers of the Customs and Excise Department at entry points and other places and premises.

99. Due to the very rapid growth of trade across the land boundary with the Mainland, a balance is needed between speedy clearance and proper levels of surveillance for illegal cargoes of various kinds. Mobile and fixed X-ray vehicle scanning systems were installed to detect unmanifested consignments, false compartments, and altered structures in trucks or containers, even when fully laden. As from 15 November 2004, the Chinese Mainland Customs and Hong Kong Customs have used a mutually recognised Green Customs Seal to avoid unnecessary duplication of Customs examination, facilitate trade, and expedite vehicular traffic at the land boundary on both sides.

100. Preshipment inspection is not required in Hong Kong, China. Since June 2004, Hong Kong Customs has implemented the "Release Goods Before Duty Payment" scheme for express cargo operators. Upon furnishing a security bond to Customs, the participating cargo operators can remove import shipments of dutiable goods from the Hong Kong International Airport and are allowed to settle the duty payment afterwards. Since July 2008, Hong Kong Customs has also introduced a facilitation measure to allow wine shipment imported by air or sea by means of temperature-controlled containers, which are selected for Customs examination, to be inspected at the importer's designated premises. This measure will enable imported wine to be kept under temperature-control during Customs examination.

101. In March 2004, the Hong Kong Customs and Excise Training School was appointed by the World Customs Organization (WCO) as a regional training centre in the Asia Pacific Region to promote and support the implementation of the WCO's objectives in capacity building at the regional level. Since then, Hong Kong Customs has organised three regional seminars; two on SAFE Framework of Standards to Secure and Facilitate Global Trade (FoS) and one on Corporate Risk Management to enhance member administrations' capabilities in facing the challenges of the 21<sup>st</sup> century.

#### 3.2.4. Measures Affecting Exports

##### **(A) REGISTRATION AND DOCUMENTATION**

102. An export declaration must be lodged electronically with the Customs and Excise Department within 14 days of the export of a consignment, except for exempted articles.<sup>25</sup> Electronic submission of trade declarations using the GETS became mandatory from April 2000. Trade declarations are also required for re-exports. The data on trade declarations are used mainly for compiling trade statistics.

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<sup>23</sup> Television sets, video cassette recorders and players; air conditioners and refrigerators; poultry carcasses and poultry products; ozone depleting substances; left-hand-drive vehicles; outboard engines exceeding 111.9 kilowatts; marine fish; optical disc mastering and replication equipment; and radio-communications transmitting apparatus.

<sup>24</sup> These commodities are listed in the Schedules to the Import and Export (Strategic Commodities) Regulations. They include munitions items, chemical and biological weapons and their precursors, nuclear materials and equipment, and industrial dual-use goods, etc.

<sup>25</sup> Exempted articles are stipulated in regulation 3 of the Import and Export (Registration) Regulations.

103. The TID administers a certification system to establish the origin of Hong Kong, China's exports and to meet the requirements of the importing countries, including for the generalised system of preferences (GSP)<sup>26</sup> and CEPA-covered products. TID along with five industry organisations are responsible for issuing these certificates of origin (COs).<sup>27</sup> Only registered manufacturers with verified manufacturing capacity to perform the origin-conferring processes may apply for COs. TID also ensures that the other issuing organisations adopt the same practices and procedures, and follow the rules of origin.

104. If requested by the importing country, exports originating in Hong Kong, China are accompanied by a sanitary and/or phytosanitary certificate issued by the Agriculture, Fisheries and Conservation Department and by the Food and Environmental Hygiene Department.<sup>28</sup>

## **(B) EXPORT CHARGES AND LEVIES**

105. Export declaration charges are specific in nature but escalate by value (Table III.3). Exports of clothing and footwear are subject to a clothing industry training levy of HK\$0.30 per every HK\$1,000 exported.<sup>29</sup> Hong Kong, China does not levy any export-related duties or taxes.

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<sup>26</sup> Hong Kong, China is a beneficiary under the GSP schemes operated by Canada and the Russian Federation.

<sup>27</sup> The five organisations, designated by the Government under Article 11 of the International Convention for the Simplification of Customs Formalities 1923, are: the Hong Kong General Chamber of Commerce; the Federation of Hong Kong Industries; the Indian Chamber of Commerce, Hong Kong; the Chinese Manufacturers' Association of Hong Kong; and the Chinese General Chamber of Commerce.

<sup>28</sup> Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES) certificates of origin for the purpose of exporting an endangered animal or plant species are issued in the form of an export licence by the Agriculture, Fisheries and Conservation Department. Since 1 January 2000 health certificates for food of animal origin are issued by the Food and Environmental Hygiene Department.

<sup>29</sup> Customs and Excise Department online information. Available at: [http://www.customs.gov.hk/eng/major\\_declaration\\_charge\\_e.html](http://www.customs.gov.hk/eng/major_declaration_charge_e.html).

**Table III.3**  
**Export declaration charges, 2008**

(HK dollars)

	<b>Government (declaration charge)</b>	<b>Service providers (service charge for direct electronic declaration) (HK\$)<sup>b</sup></b>	<b>Paper-to-electronic conversion service charge (HK\$)<sup>a, b</sup></b>
<b>Exports/Re-exports</b>			
Value of up to HK\$46,000	0.50	about 12	about 30-50
Each additional HK\$1,000	0.25	n.a. <sup>c</sup>	n.a. <sup>c</sup>

Notes :

n.a. Not applicable.

a The charge includes converting the information into electronic messages and onward transmission to Government.

b These are standard charges published by service providers from time to time and may be subject to change.

c There is no charge for additional declarations.

Source: Customs and Excise Department online information. Available at: [http://www.customs.gov.hk/eng/major\\_declaration\\_charge\\_e.html](http://www.customs.gov.hk/eng/major_declaration_charge_e.html).

## **(C) EXPORT PROHIBITIONS, LICENSING, AND RESTRICTIONS**

### **(i) Export prohibitions**

106. Exports of ozone-depleting substances to non-parties to the Montreal Protocol are banned. Exports of controlled waste to non-parties to the Basel Convention are also prohibited.

107. Hong Kong, China complies with trade sanctions imposed by the UN Security Council.<sup>30</sup>

### **(ii) Export licensing and restrictions**

108. Certain exports require an export licence, permit or certificate on grounds of, *inter alia*, protection of the ozone layer and the environment, security, public health, and food security.<sup>31</sup> These exports are: textiles; ozone-depleting substances; strategic commodities; dangerous drugs, pharmaceutical products, and medicines; rice (the only reserved commodity)<sup>32</sup>; dutiable commodities; endangered animals and plant species; optical disc mastering and replication equipment; controlled chemicals<sup>33</sup>, pesticides, hazardous wastes and controlled wastes<sup>34</sup>; rough diamonds; radio transmitting apparatus; weapons, explosives, firearms, ammunition, and weapons.

109. Same as imports, exports of strategic commodities must be licensed by the Director-General of Trade and Industry.<sup>35</sup> Transshipment cargoes and articles-in-transit of

<sup>30</sup> UN Security Council Resolutions adopted by China extend to Hong Kong, China.

<sup>31</sup> Information on controlled exports by the Customs and Excise Department. Available at: [http://www.customs.gov.hk/eng/major\\_import\\_prohibited\\_export\\_e.html#top](http://www.customs.gov.hk/eng/major_import_prohibited_export_e.html#top). Poultry carcasses and poultry products have been free of export licence requirements since 2000.

<sup>32</sup> Under the Reserved Commodities Ordinance and the Reserved Commodities (Control of Imports, Exports and Reserve Stocks) Regulations, a reserve stock of scheduled commodities has to be kept, and imports and exports of these commodities are subject to licensing control.

<sup>33</sup> Under the Hazardous Chemicals Control Ordinance, the import, export and transshipment of the non-pesticide chemicals listed in the Stockholm Convention on Persistent Organic Pollutants, and the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, are subject to control of a permit and licensing system.

<sup>34</sup> Hong Kong, China has been exercising permit control since 1996 for exports of controlled wastes in line with the Basel Convention.

<sup>35</sup> These commodities are listed in the Schedules to the Import and Export (Strategic Commodities) Regulations. They include munitions items, chemical and biological weapons and their precursors, nuclear materials and equipment, and industrial dual-use goods, etc.

strategic commodities are treated as imports and exports, hence also subject to licensing control. Strategic trade controls are aimed at preventing Hong Kong, China from being used as a conduit for proliferation of weapons of mass destruction, and to secure continued access to technology and high-tech goods. Hong Kong, China's strategic trade control list mirrors those adopted by various international export control regimes and conventions<sup>36</sup> and is updated from time to time in order to reflect changes made by such regimes. Moreover, to counter potential terrorist activities, Hong Kong, China has been implementing the US Container Security Initiative (CSI) and the Secure Freight Initiative (SFI) Pilot Scheme since May 2003 and November 2007 respectively. Under the CSI, advance cargo information of US-bound cargoes would be pre-screened for identification of high-risk cargo containers before they make their way to the US. CSI has been operating smoothly in Hong Kong, China. Under the SFI, containers leaving Hong Kong, China for the US delivered by trucks through the in-gate of a designated terminal in Kwai Chung are scanned on a voluntary basis for detection of special nuclear material and other radioactive materials. No target substance has so far been detected. In April 2008, we agreed to roll the pilot forward by one year to 30 April 2009.

110. Until the end of 2004, a major portion of the textiles and clothing exports from Hong Kong, China was subject to quantitative restrictions by Canada, the EC, and the US under the WTO Agreement on Textiles and Clothing (ATC). In view of the phasing out of the quota system, amendments to the Import and Export (General) Regulations were made to provide for the implementation of a simplified textiles control and licensing system as from 1 January 2005 to facilitate trade. Under the post-2004 textile control system, all quota-related services have ceased. Licensing requirements for commercial shipments of textiles have been streamlined and different licensing arrangements applied to "sensitive" and "non-sensitive" markets.<sup>37</sup> Sensitive markets include the Mainland, the US, and the EC. All other economies are regarded as non-sensitive markets.

111. In an effort to avoid illegal transshipment or false declaration of origin, and to safeguard the integrity and credibility of Hong Kong, China's origin control system, all textiles shipments involving the sensitive markets must be covered by either consignment-specific licences issued by the Director-General of Trade and Industry, or export or import textiles notifications completed by textiles traders registered under the Textiles Trader Registration Scheme (TTRS). The licensing requirements for the Mainland and the US commenced on 1 January 2005, and for the EC on 15 March 2006. In addition, all cut-and-sewn garments destined for the US and the EC have been subject to the production notification (PN) requirement.<sup>38</sup> Textiles shipments involving non-sensitive markets are covered by either comprehensive or consignment-specific import or export licences.<sup>39</sup> The textiles control system is kept under regular review for further streamlining taking into account developments in the global trading environment and the local manufacturing scene.

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<sup>36</sup> These are: the Wassenaar Arrangement, Nuclear Suppliers Group (NSG), Zangger Committee established under the Nuclear Non-Proliferation Treaty (NNPT), Missile Technology Control Regime (MTCR), Australia Group (AG), and Chemical Weapons Convention (CWC).

<sup>37</sup> Details of the import and export licensing requirements for textiles are available at: [http://www.tid.gov.hk/english/import\\_export/textiles/ts\\_maincontent.html](http://www.tid.gov.hk/english/import_export/textiles/ts_maincontent.html).

<sup>38</sup> Under the Import and Export Ordinance and its subsidiary legislation, no one can commence production of cut-and-sewn garments destined for the US and the EC unless they lodge a PN with the Director-General of Trade and Industry within three working days before the day on which production commences. The PN requirement enables customs officers to conduct real time check to ensure that the origin-conferring process for the manufacture of these garments has taken place in Hong Kong, China.

<sup>39</sup> A comprehensive import or export licence may cover multiple shipments by the licence holder for one year, regardless of the product type, quantities, and import/export market (except sensitive markets).

112. In order to detect and prevent fraudulent exports of textiles and clothing products, Hong Kong, China maintains strict controls. The Commissioner of Customs and Excise is responsible for enforcing this system through the examination and inspection of goods covered by PN, certificates of origin, import/export licences, and notifications at factories and at entry and exit points. Customs officers verify the origin-conferring production processes for goods and the accuracy of material particulars declared. Moreover, the factory's production capacity is measured against its export performance. Offenders may be subject to criminal prosecution and/or administrative action.

#### **(D) EXPORT SUPPORT**

113. Hong Kong, China does not provide any prohibited subsidies to exporters.

114. Hong Kong, China continues to grant excise duty exemptions and refunds on duty-paid exports upon written consent of the Commissioner of Customs and Excise, or for other specific purposes. The excise duty refunded must in no case exceed the amount of duty paid on the goods. Duties are refunded on: imported goods that do not correspond to the description, quality, state or condition of the goods stated in the contract of sale or are damaged in transit and therefore destroyed in Hong Kong, China or returned to the overseas suppliers; goods supplied for consular use; samples drawn for analysis by the Government Chemist; fuel in the fuel tank of pleasure vessels of more than 60 tons net registered for use to reach an identified port outside Hong Kong, China; and light diesel oil used in franchised buses and support vehicles.<sup>40</sup> Excise duties revenue forgone as a result of these exemptions and refunds amounted to HK\$1,648 million for the financial years 2004/05 to 2007/08.<sup>41</sup>

115. The Hong Kong Export Credit Insurance Corporation (ECIC) provides insurance protection for exporters of goods and services against non-payment risks arising from commercial and political events. Exports of services are also covered through policies designed to meet the requirements of specific service sectors.<sup>42</sup> The total value of goods and services insured by ECIC amounted to HK\$42.95 billion in 2007/08. In face of the global financial crisis, ECIC launched a series of enhancement measures since October 2008 to strengthen support to exporters, particularly SMEs in maintaining their business and developing new markets. These measures include offering each exporter three free buyer credit assessment services, uplifting the ratings on six emerging markets, including Chile, and correspondingly lowering the premium rates and increasing cover for these markets, expediting and facilitating the processing time of small credit limit applications, waiving of the annual policy fee for new and existing policyholders for one year, and organising a series of seminars to share with the industry experiences in credit management and enhance their knowledge on the latest developments in overseas markets.

#### **(E) EXPORT PROMOTION AND MARKETING ASSISTANCE**

116. The Hong Kong Trade Development Council (HKTDC), established in 1966, is the statutory organisation promoting Hong Kong, China's external trade in goods and services. Its major objectives are to diversify markets for Hong Kong, China's exports, and to promote

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<sup>40</sup> Customs and Excise Department online information, "Granting of a Refund". Available at: [http://www.customs.gov.hk/eng/major\\_dutiable\\_refund\\_e.html](http://www.customs.gov.hk/eng/major_dutiable_refund_e.html).

<sup>41</sup> HK\$432.1 million, HK\$429.5 million, HK\$421.2 million and HK\$365.1 million respectively.

<sup>42</sup> For example, these policies include the Aircraft Services Policy, the Freight Forwarding Services Policy, the Hotel Services Policy, the Construction Professional Services Policy, the Testing and Inspection Services Policy, and the Travel Agent Services Policy.

HKSAR's products and services and its role as an international business platform.<sup>43</sup> To promote exports, the HKTDC provides, *inter alia*, trade contacts and business information on a wide range of industries and services; it also holds international trade fairs. The HKTDC has developed specific programmes to support SMEs, including a Business Advisory Service and a Customer Service Centre and a Business InfoCentre.

117. The SME Export Marketing Fund (EMF), set up by the Government in December 2001, aimed at encouraging SMEs to participate in export promotion activities, such as trade fairs/exhibitions and business missions outside Hong Kong, China, as well as local export-oriented trade fairs/exhibitions. Improvement measures introduced since 2001 include: (i) simplifying the application procedures in 2005; (ii) raising the maximum cumulative grant per SME from the original HK\$10,000 in 2001 to HK\$150,000 in 2008; and (iii) extending the scope of reimbursable items to cover advertisements on printed trade publications targeting export markets as well as advertisements on website of exhibition organisers.<sup>44</sup>

### 3.2.5. Technical Barriers to Trade

#### (A) STANDARDS

118. As a predominantly trading economy, conformity with international standards is of great importance to Hong Kong, China. Hong Kong, China does not have an official standards authority or standardisation body producing official domestic standards. Standards, if applied in Hong Kong, China, are imposed for safety, health, and environmental reasons and are essentially based on international standards and/or prevailing overseas standards.

119. The Hong Kong Accreditation Service (HKAS) of the Innovation and Technology Commission (ITC) provides accreditation services to laboratories, certification bodies and inspection bodies on a voluntary basis under the Hong Kong Laboratory Accreditation Scheme (HOKLAS), the Hong Kong Certification Body Accreditation Scheme (HKCAS), and the Hong Kong Inspection Body Accreditation Scheme (HKIAS). HKAS is a signatory to several mutual recognition arrangements (MRAs) or multilateral recognition agreements (MLAs).<sup>45</sup> By December 2008, HOKLAS has concluded MRAs for accreditation of laboratories with 65 accreditation bodies in 51 economies; HKCAS has concluded MLAs for accreditation of quality management system (QMS) certification bodies with 39 accreditation bodies in 39 economies; HKIAS has concluded MRAs for accreditation of inspection bodies with 11 accreditation bodies in 10 economies. Hong Kong, China has also participated in APEC MRAs.<sup>46</sup> These arrangements form the technical basis for mutual acceptance of conformity assessment results to facilitate trade in relevant products.

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<sup>43</sup> In addition to the head office in Hong Kong, China, HKTDC has offices in various economies to facilitate the implementation of its programmes. For 2009/10, HKTDC's gross operating expenditure is around HK\$ 2.22 billion, of which 85.6% is covered by self-generated income and the rest by a government subvention financed through the trade declaration charges.

<sup>44</sup> TID online information, "SME Funding Schemes". Available at: [http://www.smefund.tid.gov.hk/eng/eng\\_main.html](http://www.smefund.tid.gov.hk/eng/eng_main.html).

<sup>45</sup> International Accreditation Forum (IAF) MLA, International Laboratory Accreditation Cooperation (ILAC) MRA, Pacific Accreditation Cooperation (PAC) MLA, and Asia Pacific Laboratory Accreditation Cooperation (APLAC) MRA.

<sup>46</sup> Hong Kong, China's participation in APEC MRAs includes the APEC Arrangement for the Exchange of Information on Toy Safety, the APEC MRA on Conformity Assessment of Food and Food Products, APEC Arrangement for the Exchange of Information on Food Recalls, the APEC MRA on Conformity Assessment of Electrical and Electronics Products Part I Information Exchange, and the APEC

120. On individual sectors, telecommunications equipment is generally subject to type approval. In 1998, the Telecommunications Authority (TA) launched the Hong Kong Telecommunications Equipment Evaluation and Certification (HKTEC) Scheme. To provide a better framework for certification, telecommunications equipment is classified under two schemes. Under the Voluntary Certification Scheme (VCS), certification of telecommunications equipment is voluntary and equipment can be marketed or used in the HKSAR even if it has not been certified. Examples of equipment that falls under the VCS are single-line equipment (e.g. simple telephones, fax machines, and dial-up modems) and low power radio devices. Under the Compulsory Certification Scheme (CCS), telecommunications equipment must be certified before it can be marketed or used in the HKSAR. The HKTEC scheme also defines the labelling requirement for certified equipment. The TA and foreign certification bodies recognised by HKSAR under the terms of APEC MRA on Telecommunications Equipment Part II: Mutual Recognition of Certification can now grant certificates for radio and wireline equipment.

121. Electrical products for household use require a certificate of safety compliance under the Electrical Products (Safety) Regulation (Chapter 406G, Laws of Hong Kong).<sup>47</sup> Electrical products are classified as non-prescribed products (e.g. air conditioners, audio and video equipment, electric fans, etc.) or prescribed products (e.g. plugs, adapters, lamp holders, flexible cords, extension units and unvented thermal storage type electric water heaters). A certificate of safety compliance for a prescribed product can be a certificate/report issued by a certification body recognised by the Director of Electrical and Mechanical Services (DEMS) or a declaration of conformity issued by the manufacturer recognised by DEMS. A certificate of safety compliance for non-prescribed electrical products can be a self-declaration of conformity issued by a product manufacturer who may not need to be recognised by the DEMS, but shall be substantiated with a test certificate/report issued by an accredited certification body.

122. Since 2006, Hong Kong, China has made 11 notifications to the WTO Committee on Technical Barriers to Trade, including five regarding voluntary or mandatory labelling requirements. The Innovation and Technology Commission of the HKSAR Government is the notification and enquiry point of Hong Kong, China under the WTO Agreement on Technical Barriers to Trade.

## **(B) MARKING AND LABELLING**

123. There are a number of regulations governing labelling, packaging and/or advertisement requirements for imported or domestically produced articles (Table III.4).

**Table III.4**  
**Labelling requirements, 2008**

<b>Goods</b>	<b>Labelling requirement</b>
Toys and children's products (covered under the Toys and Children's Products Safety Ordinance) (Chapter 424)	Trader's name or other identification mark and local address of the manufacturer, importer or supplier must be in either English or Chinese, or both. Any warning or caution with respect to the safe keeping, use, consumption or disposal must be in both English and Chinese.
Consumer Goods Safety Ordinance (Chapter 456)	Warning or caution labels on consumer goods (e.g. cosmetics, condoms, etc.) with respect to their safe keeping, use, consumption or disposal must be in both English and Chinese.

MRA on Telecommunications Equipment Part I: Mutual Recognition of Test Reports and Part II: Mutual Recognition of Certification.

<sup>47</sup> Electrical Products (Safety) Regulation (Chapter 406G, Laws of Hong Kong).

Pre-packaged foods (Food and Drugs (Composition and Labelling) Regulations (Chapter 132W))	Name or designation of food; list of ingredients; durability indication; special conditions for storage or instructions for use; name and address of manufacturer or packer; count, weight, or volume; and allergens. With effective from 1 July 2010, prepackaged food have to be labelled with the value of energy, seven core nutrients (trans fat, protein, carbohydrates, fat, saturated fat, sodium and sugars) and any nutrient(s) for which a claim is made.
Packaged pharmaceuticals (The Pharmacy and Poisons Ordinance (Chapter 138))	Bilingual dosage direction and other applicable cautionary statement(s). Packages must be in impermeable containers to prevent accidental leakage.
Dangerous goods covered under the Dangerous Goods Ordinance (Chapter 295)	Labels, setting out the nature of hazards, must be bilingual (Chinese and English).
Energy Efficiency (Labelling of Products) Ordinance (Chapter 598)	Energy labels indicating energy efficiency performance are required to be shown on prescribed products supplied in Hong Kong, China. Three types of prescribed products covered in the first phase of the mandatory Energy Efficiency Labelling Scheme (EELS) are room air conditioners, refrigerating appliances and compact fluorescent lamps.  There is an 18-month transitional period for the prescribed products to be supplied without reference number and energy label. The transitional period will end on 8 November 2009.

Source: Information provided by the authorities of Hong Kong, China.

124. Hong Kong, China has implemented new voluntary labelling requirements under its voluntary Energy Efficiency Labelling Scheme (EELS) for various household electrical appliances and office equipment. As at December 2008, there are 18 types of household appliances and office equipment being implemented under voluntary EELS. Participating manufacturers, agents or retailers must affix energy labels in specified format onto their registered appliances, indicating that the appliances have met certain energy efficiency and performance requirements in accordance with the voluntary EELS.

### 3.2.6. Sanitary and Phytosanitary Measures

125. The objective of Hong Kong, China's food safety control system is to ensure that food products are hygienic, safe, and fit for human consumption. This system is based on risk assessment, placing particular emphasis on safety control at the source. The authorities consult with traders and consumers on issues regarding the control of food safety.

126. The Public Health and Municipal Services Ordinance (Chapter 132) and its subsidiary regulations stipulate sanitary controls.<sup>48</sup> The Ordinance is aimed at preventing the consumption of food unfit for human consumption. It lists the offences of selling such food, and authorizes officers to seize, remove, and destroy it. The subsidiary regulations prescribe detailed rules on food standards, controls on imports of food, and related matters.

127. All food items available in the market (whether imported, domestically produced or processed) are surveyed at random in order to ensure safety. Priority is given to high-risk foods, products that are subject to complaints, and items suspected of being related to food poisoning cases. Collected food samples are subject to chemical tests (to detect additives and contaminants), microbiological tests (on bacteria and virus), or radioactive tests (to

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<sup>48</sup> These regulations are: Colouring Matter in Food Regulations; Dried Milk Regulations; Food Adulteration (Artificial Sweeteners) Regulations; Food Adulteration (Metallic Contamination) Regulations; Food and Drugs (Composition and Labelling) Regulations; Frozen Confections Regulation; Harmful Substances in Food Regulations: Imported Game, Meat and Poultry Regulations; Milk Regulation; Mineral Oil in Food Regulations; Preservatives in Food Regulations; Food Business Regulation; Slaughterhouses Regulation and Smokeless Tobacco Products (Prohibition) Regulations. Available at: <http://www.fehd.gov.hk/safefood/foodlaw1.html>.

monitor the level of radioactivity in food supply), depending on the product's nature and associated risks.

128. As from 2000, the authorities are promoting the adoption of the Hazard Analysis Critical Control Point (HACCP) system of controls to prevent food safety hazards rather than relying on end-product testing. The HACCP is integrated into the food production and manufacturing process. However, it is not mandatory for the operators to implement the HACCP system. It is estimated that about 30 out of 19,500 food establishments were implementing the HACCP system in their production processes in 2005. With the establishment of the Centre for Food Safety in May 2006, the promotion of HACCP systems among the food trade as well as the general public has been continued.

129. Sanitary controls on imported food are imposed solely on public health grounds and on the basis of scientific evidence. Imports of perishable products (e.g. milk, milk beverages, frozen confections, game, meat, and poultry) must be accompanied by official health certificates issued by recognized overseas authorities. Inspection and random sampling of these goods are carried out at import control points.

130. Vegetables imported from the Mainland must be accompanied by an official monitoring card and pesticide declaration form. Tests for samples of vegetables are conducted at the Man Kam To control point for pesticide residues; if the results are positive, goods are recalled.

131. Seafood is considered a high-risk food. Hence, seafood shipments are subject to random inspection and sampling for testing at import control points. In particular, importers of coral reef fish from "high-risk" harvest zones (i.e. where ciguatoxin has previously been found) need to submit fish samples to the Food and Environmental Hygiene Department (FEHD) for testing before importation. Importation may only take place once the samples are shown to be ciguatoxin free. For coral reef fish from other harvest zones, traders are required to notify the FEHD upon importation, and random samples are taken upon arrival.

132. Various measures are implemented to ensure that live animals are safe for human consumption: verification and inspection of health documents, of tags/tattoos, and of the general health conditions of imported food animals at points of entry; ante-mortem inspection of every animal to be slaughtered; and random urine sampling of live food animals to test for prohibited and restricted chemicals as specified in the Public Health (Animals and Birds) (Chemical Residues) Regulation. All consignments of local and imported poultry are tested for the avian influenza virus before being sold or slaughtered. Also, all local and imported poultry is required to be channelled through the government wholesale market and all food animals are required to be slaughtered at government-licensed slaughterhouses.

133. Since 2006 Hong Kong, China has made 13 notifications (including addenda and revisions) to the WTO Committee on Sanitary and Phytosanitary Measures. It has notified, *inter alia*, the setting of new food safety standards and new food labelling requirements.

### 3.2.7. Rules of Origin

134. As Hong Kong, China does not apply import tariffs, it has no preferential rules of origin.<sup>49</sup> In general, no certificate of origin is required for imports, nor is it mandatory to

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<sup>49</sup> WTO document G/RO/N/1/Add.1, 22 June 1995.

indicate the origin on imported goods.<sup>50</sup> In the case of re-exports, the origin initially conferred by the place from where the goods originated is maintained. In order to be eligible for zero tariff treatment under the CEPA, Hong Kong, China products should observe the agreed rules of origin requirements (on 1,565 Mainland 2009 tariff codes<sup>51</sup>); for products that have no agreed rules of origin, their relevant rules are jointly worked out twice a year, on application by the trade.<sup>52</sup>

### **3.3. Services**

#### **3.3.1. Measures Affecting Trade in Services**

##### **(A) FINANCIAL SERVICES**

135. Enhancing Hong Kong, China's status as a global financial centre to help the economy power ahead is a well-considered strategy. To strengthen Hong Kong, China's competitiveness under increasing global competition and maintain our position as a leading regional and international financial centre, we continue our efforts in improving the quality of the market, modernising the regulatory regime and upgrading market infrastructure.

136. Hong Kong, China boasts a sound legal system, a free flow of capital and information, a large pool of financial talent and a vibrant economy. All these underpin our status as a global financial centre. Meanwhile, the economic development as well as the reform and opening up of the Mainland have presented new opportunities for a broader and deeper financial market. Building on this solid foundation, we will look for opportunity, and tap into emerging markets to consolidate our financial sector as an important economic pillar.

##### **(i) Banking Industry**

137. Hong Kong, China has an open banking sector whereby local and foreign banks compete on a level playing field. Under the current three-tier licensing system maintained by the HKSAR, foreign banks may enter the Hong Kong, China banking market as licensed banks, restricted licence banks or deposit-taking companies. They may operate in the form of locally incorporated companies or branches of foreign banks.

##### **(ii) Securities and Futures**

138. The Securities and Futures Ordinance (SFO), which brought Hong Kong, China's regulatory framework on a par with international standards and practices, has been in operation since 1 April 2003. In light of local market needs and international developments, the Government is exploring ways to further improve the existing regulatory framework, particularly with regard to the securities business of authorised institutions.

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<sup>50</sup> However, where an origin indication is given, the origin would be determined as the country in which the good last underwent a treatment or process that permanently and substantially changed the shape, nature, form, or utility of the basic materials used in its manufacture; or in which it was wholly grown or mined (WTO documents G/RO/N/1/Add.1, 22 June 1995, G/RO/N/10, 16 August 1996, G/RO/N/24, 15 January 1999, G/RO/N/30, 13 February 2001).

<sup>51</sup> As of 31 May 2009.

<sup>52</sup> Under CEPA, three major types of rules of origin are used for most products concerned: process-based origin rules (for textiles and clothing, food and beverages, pharmaceutical, plastics and metal products); change in tariff heading; and the 30% value-added content requirement. For other items, including fish and aquaculture products, agreed rules could be wholly obtained, or taking into account the characteristics of the products concerned. Other criteria may also be used when applicable.

### **(iii) Insurance**

139. The insurance industry in Hong Kong, China is a cosmopolitan and competitive one. A level playing field is maintained for all insurers and insurance intermediaries irrespective of their countries of origin. This is evident from the large number of authorised insurers (175 as at 31 December 2008) and the strong presence of foreign companies. About 48% of the authorised insurers were incorporated outside Hong Kong, China in 23 places, with Bermuda taking the lead<sup>53</sup>.

140. The Office of the Commissioner of Insurance (OCI) has been implementing a number of measures to further enhance the regulatory regime in respect of the insurance sector. To ensure the institutional independence of OCI and enhance its flexibility to respond to market developments, we are also studying the proposal of turning OCI into a regulator independent of the Government.

### **(iv) Mandatory Provident Fund System**

141. Hong Kong, China implemented the Mandatory Provident Fund (MPF) System in December 2000. It is a privately managed, mandatory system of provident fund schemes to assist members of the workforce to accumulate financial resources for their retirement life. The MPF System operates under a free market competition environment. There is no barrier to entry, quantitative or qualitative, for foreign institutions intending to participate in the MPF market. MPF schemes are governed by trust. Any institution, irrespective of its place of origin, that meets the eligibility requirements (including paid up capital and net asset requirements) may apply for approval as a trustee, or to provide services for MPF schemes like investment management and custody of assets. There is no fixed quota on the number of approved trustees and the number is currently 19<sup>54</sup>.

142. In order to enhance transparency and to enable scheme members to make more informed and effective investment decisions, the Mandatory Provident Fund Schemes Authority (MPFA) has issued a Code on Disclosure for MPF Investment Funds and launched a web-based MPF Fee Comparative Platform. A set of Compliance Standards is also in place to assist approved MPF trustees in establishing a rigorous framework for monitoring their compliance with statutory duties and responsibilities.

### **(v) Corporate Governance**

143. Enhancing Hong Kong, China's corporate governance (CG) regime is a priority of our work. The Government, together with other relevant parties, attach much importance to uphold our CG standards in line with international standards.

144. Good progress has been made in the past few years. For example, we together with the Securities and Futures Commission (SFC) and the HKEx had drawn up a CG Action Plan in 2003. All the initiatives under the Action Plan have been completed or are near completion.

145. One of the key proposals is the establishment of the Financial Reporting Council (FRC) to investigate audit irregularities and financial reporting non-compliance of listed entities to enhance the regulation of auditors and improve the quality of financial reporting of listed entities. The Financial Reporting Council Ordinance, which provides for the

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<sup>53</sup> Figure as of 17 April 2009, Office of the Commissioner of Insurance.

<sup>54</sup> Figure as of 31 March 2009, Mandatory Provident Fund Schemes Authority.

legislative framework for the establishment of the FRC, was enacted by the LegCo in July 2006. The FRC came into full operation in mid 2007.

146. The Hong Kong Financial Reporting Standards, which are issued by the Hong Kong Institute of Certified Public Accountants, have fully converged with International Financial Reporting Standards since 1 January 2005. This uniform accounting platform, well understood by global investors and financial analysts, is conducive to the comparison of corporations and their results in different jurisdictions and leads to greater confidence in the transparency and quality of Hong Kong, China's financial markets.

147. We are embarking on a major exercise to rewrite the Companies Ordinance (CO), starting from mid-2006, with a view to providing Hong Kong, China with an up-to-date legal infrastructure attuned to its needs as a major international financial centre in the 21<sup>st</sup> century, through streamlining and modernising the legislative provisions, strengthening its existing corporate governance and leveraging company law developments in other major common law jurisdictions.

#### **(B) TELECOMMUNICATIONS**

148. Since 2003, the Government has fully opened all sectors of the telecommunications market to competition. Thus local and external, services-based and facilities-based telecommunications services in Hong Kong, China are all provided by the private sector. There are no foreign ownership restrictions.

149. The Telecommunications (Amendment) Ordinance 2003 was passed by the LegCo in May 2003. It sets out a framework for the regulation of mergers and acquisitions of carrier licensees in the telecommunications market with an *ex post* regulatory regime whereby the Telecommunications Authority is empowered to sanction against completed mergers and acquisitions which have, or are likely to have, the effect of substantially lessening competition.

#### **(C) BROADCASTING**

150. Hong Kong, China has a liberalised and vibrant broadcasting market. The Government's broadcasting policy objectives are to widen the programme choice for the community, encourage investment and innovation in the broadcasting industry, promote fair and effective competition and enhance Hong Kong, China as a regional broadcasting hub.

151. The Government announced the implementation framework for digital terrestrial television in July 2004. The two domestic free television programme service licensees successfully launched digital terrestrial television (DTT) in the end of 2007 and extended digital coverage to 75% of Hong Kong, China population in August 2008. The phased construction of DTT network will continue in 2009 to 2011.

152. Having regard to technological advancement, public views, market response and overseas experience, the Government announced in end-2008 the implementation framework for development of broadcast-type mobile TV services in Hong Kong, China in accordance with our market-led, technology-neutral and facilitating regulatory approach. The relevant frequency spectrum will be released by way of auction in 2009.

153. Following a public consultation in the first half of 2006, the Government plans to introduce the legislation to merge the Broadcasting Authority and the Telecommunications Authority into a unified regulator to oversee the entire electronic communications sectors.

The purpose is to ensure coordinated, consistent and effective regulation of the converging communications industry.

**(D) PROFESSIONAL SERVICES - LEGAL SERVICES**

154. Lawyers are admitted to practice in Hong Kong, China either as solicitors or barristers, and there are different admission requirements for the two branches of the profession. Such requirements are provided in the Legal Practitioners Ordinance. Pursuant to the Ordinance, the two professional bodies, namely the Law Society and the Bar Association, are vested with the power to regulate solicitors and barristers in areas such as practice, conduct, discipline, examination and continuing education by way of subsidiary legislation. It is provided in the Ordinance that these rules and regulations made by the Law Society and the Bar Association would require the prior approval of the Chief Justice.

155. With the amendments to the Ordinance in 1995 and 2000<sup>55</sup> respectively, the admission criteria for solicitors and barristers are now in line with the general obligations of the WTO General Agreement on Trade in Services (GATS). All foreign lawyers, coming from common law and non-common law jurisdictions are allowed to take specified examinations to become solicitors and barristers.

**3.3.2. International Commitments Related to Services**

**(A) WTO**

156. Hong Kong, China's schedule of specific commitments under the GATS contains no horizontal limitations.<sup>56</sup> Its specific commitments cover: financial services; business services; communication services (including telecommunications); construction and related engineering services; distribution services; tourism and travel-related services; recreational, cultural and sporting services; and maritime transport services.<sup>57</sup> Hong Kong, China has accepted the Fourth and Fifth Protocols to the GATS, which are related to basic telecommunications and financial services and entered into force on 5 February 1998 and 1 March 1999, respectively.

157. Hong Kong, China, an active participant in the ongoing round of negotiations, submitted its initial offer and revised offer on services in April 2003 and June 2005, respectively.<sup>58</sup> Its initial offer included new commitments on a number of business services, environmental services, and health-related and social services; widened scope for distribution services; and improved commitments for telecommunication services, audiovisual services, construction and related engineering services, financial services, tourism and travel-related services, recreational, cultural and sporting services, and maritime transport services. Further improvements, as contained in its revised offer, covered the areas of movement of natural persons (mode 4), urban planning and landscape architectural services, maritime transport services, and freight transportation services. In the areas of computer and related services, maritime transport services, and logistics-related services, the offer took account of the relevant sectoral initiatives and/or proposals submitted by other WTO Members. Other

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<sup>55</sup> The new provision relating to the new admission criteria for barristers came into effect on 28 March 2003.

<sup>56</sup> WTO document GATS/SC/39, 15 April 1994.

<sup>57</sup> WTO documents GATS/SC/39, 15 April 1994, GATS/SC/39/Suppl.2, 11 April 1997, and GATS/SC/39/Suppl.3 (26 February 1998); and S/L/30, 12 September 1996.

<sup>58</sup> WTO documents TN/S/O/HKG, 23 April 2003, and TN/S/O/HKG/Rev.1, 16 June 2005.

changes, predominantly technical in nature, were aimed at further enhancing the clarity, certainty, and comparability of Hong Kong, China's commitments.

158. Hong Kong, China grants MFN treatment to all WTO Members. It had originally made an exemption to the principle of MFN treatment related to reciprocity on the granting of full banking licences to banks incorporated outside the HKSAR in 1994, but withdrew this in 1995.<sup>59</sup>

#### **(B) CLOSER ECONOMIC PARTNERSHIP ARRANGEMENT**

159. Since 2003, Hong Kong, China and the Mainland have proceeded with continuous market opening under the Closer Economic Partnership Arrangement (CEPA). Under CEPA and its six Supplements, Hong Kong, China Service Suppliers can enjoy preferential treatment in a total of 42 service areas<sup>60</sup> in the Mainland market. In general, the liberalisation measures will provide wider and earlier access for Hong Kong, China service suppliers to the Mainland, ahead of the Mainland's WTO timetable of GATS commitments. In sectors like audiovisual, transport and distribution, China's concessions go beyond its WTO commitments. Reciprocally, Hong Kong, China undertook not to impose any new discriminatory measures on the Mainland's services and services suppliers in the areas for which the Mainland has offered liberalisation measures to Hong Kong, China. Such commitments go beyond Hong Kong, China's services commitments under the GATS, both in terms of sectoral coverage and the extent of liberalisation. Separately, the CEPA also offers greater market access and flexibility for Hong Kong, China's financial services suppliers and professionals to conduct business in the Mainland, and enhances cooperation in tourism promotion, mutual recognition of professional qualifications, and exchange of professional talents. The "WTO-plus" liberalisation measures for services trade give Hong Kong, China companies competitive advantages over their foreign investors in the market of the Mainland.

### **3.4. Foreign Investment Regimes**

160. Hong Kong, China welcomes foreign investment and does not discriminate between foreign and domestic investors.<sup>61</sup> Attracting foreign investment is a priority of the Government. Efforts in this area are spearheaded by Invest Hong Kong, which has investment promotion staff operating in the Investment Promotion Units (IPUs) of the Hong Kong Economic and Trade offices and the Beijing Office of the HKSAR Government or external consultants engaged in different strategic locations not covered by the IPUs, to actively encourage and facilitate foreign investment in Hong Kong, China. Foreign investment is widely considered beneficial, even crucial, for economic stability.

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<sup>59</sup> WTO documents GATS/EL39, 15 April 1994, and GATS/EL/39/Suppl.1/Rev.1, 28 July 1995.

<sup>60</sup> Under the CEPA, the Mainland agreed to provide preferential treatment to Hong Kong, China service suppliers in: accounting, advertising, air transport (supporting and auxiliary transport services), audiovisual, banking, building cleaning, computer and related services, cultural, convention and exhibition, distribution, environmental, freight forwarding agency, individually owned stores, information technology, insurance, job referral agency, job intermediary, legal, logistics, management consulting, market research, medical and dental, patent agency, photographic, printing, professional qualification examinations, public utility, real estate and construction, related scientific and technical consulting services, rail transport, research and development, storage and warehousing, securities and futures, services incidental to mining, services related to management consulting, social services, sporting, telecommunications, tourism, trade-mark agency, translation and interpretation and transport (including road freight/passenger transportation, maritime transport and rail transport).

<sup>61</sup> Index of Economic Freedom (2006).

161. All businesses in the SAR, local or overseas alike, must obtain a Business Registration Certificate from the Inland Revenue Department (IRD) within one month of commencement of business.<sup>62</sup> Foreign investors in Hong Kong, China may use all available forms of business entity; private limited companies and branches of foreign companies are the most common. There is no minimum share capital requirement for an unlisted company.

162. Hong Kong, China welcomes inward investments from outside Hong Kong, China, be they from foreign countries, the Mainland or Taiwan. Companies set up by investments from outside Hong Kong, China and those set up by investments from within Hong Kong, China are treated alike, there being no discrimination against investments from outside Hong Kong, China.

163. Neither are there any restrictions on foreign exchange transactions, capital movement or repatriation of funds, nor special approval or notification requirements for foreign investments in Hong Kong, China. There is no sector/country-specific incentive on inward/outward foreign direct investment.

#### 3.4.1. Special Investment Regimes and/or zones

164. Built around the cornerstones of free enterprise and free trade, Hong Kong, China is one of the most open, externally orientated economies in the world. Goods, trade, capital and information flow with virtually no restrictions. Hong Kong, China prides itself in its liberal investment regime and also provides a pro-business framework in order to stay competitive in the world. While Hong Kong, China does not maintain horizontal or sectoral special investment regimes and/or zones, the Government has been implementing various initiatives to drive forward the development of innovation and technology by providing funding support through the Innovation and Technology Fund set up in 1999 and the DesignSmart Initiative launched in 2004 for applied R & D activities and design related projects respectively to companies having a presence in Hong Kong, China, be they of local or overseas origin.

#### 3.4.2. Bilateral Investment Promotion and Protection Agreements

165. To assure overseas investors that their investments in Hong Kong, China are adequately protected, and to enable Hong Kong, China investors to enjoy similar protection overseas, Hong Kong, China has concluded investment promotion and protection agreements (IPPAs) with 15 economies, namely Australia, Austria, the Belgo-Luxembourg Economic Union, Denmark, France, Germany, Italy, Japan, South Korea, the Netherlands, New Zealand, Sweden, Switzerland, Thailand and the United Kingdom. In addition, Hong Kong, China initialled an IPPA text with Bahrain, Kuwait and Finland in 2005, 2006 and 2008 respectively.

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<sup>62</sup> The Business Registration Ordinance and the Business Registration Regulations exempt the following businesses from the requirement of registration: (1) the activities of charities; (2) the business of agriculture, breeding or rearing of livestock, poultry, or fishing (exemption not applicable to companies incorporated or required to be registered under the Companies Ordinance); (3) the business of bootblack; and (4) business carried on by such hawkers who require licences under the Hawker Regulation, other than businesses carried on inside the main structure of a building.

### **3.5. Trade Defense Measures**

166. Hong Kong, China has no laws or regulations governing anti-dumping and countervailing actions; nor laws, regulations, or administrative procedures related to safeguard actions. As a matter of policy and practice, Hong Kong, China has never taken such actions.

### **3.6. Government Procurement**

167. The HKSAR Government adopts an open, fair, competitive and transparent system in the procurement of goods and services. Local and overseas suppliers and contractors are treated on equal footing. The procurement system of the Government is fully consistent with the WTO Agreement on Government Procurement, to which Hong Kong, China is a party.

168. Government procurement is based on the principles of best value for money, open and fair competition, transparency and public accountability.

169. Government procurement is governed by the Stores and Procurement Regulations (SPRs) made by the Financial Secretary/Secretary for Financial Services and the Treasury under the Public Finance Ordinance.<sup>63</sup> The SPRs are supplemented by Financial Circulars and Financial Services and the Treasury Bureau Circular Memoranda issued by the Secretary for Financial Services and the Treasury and Permanent Secretary for Financial Services and the Treasury (Treasury) respectively. The Treasury Branch of the Financial Services and the Treasury Bureau maintains online up-to-date information on the legal and institutional framework (including the "Guide to Procurement" and information on tenders).<sup>64</sup> The principles underlying the government procurement system of the HKSAR are consistent with the spirit and objectives of the WTO Agreement on Government Procurement to which Hong Kong, China is a signatory.

170. In general, the Government Logistics Department (GLD), the central procurement agency for goods and related services for the HKSAR Government, is the central procurement agent for the HKSAR Government and for certain public-funded organisations, such as the Hospital Authority. The GLD pays for these supplies from an advance account and is reimbursed by the end-users when they draw the goods from the GLD. The GLD also acts as the purchasing agent for stores and equipment required by specific government departments and a few non-governmental organisations. These departments and organisations pay from their own accounts directly but rely on the GLD for expertise in sourcing, tendering, negotiations, and contract administration. The Marine Department is the procurement agent for vessels.

171. Construction services are procured by the works departments concerned, under the general supervision of the Development Bureau. The Bureau gives general guidance and technical advice on tendering procedures and contract administration matters in respect of works contracts, and maintains a register of approved works contractors and a performance report system.

172. The authorities ensure that procurement procedures and practices are clear and transparent. To encourage competitive tenders, all necessary information is provided in the

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<sup>63</sup> Chapter 2, Laws of Hong Kong.

<sup>64</sup> This information is available at: <http://www.fstb.gov.hk/tb/eng/procurement/content.html>.

tender documents and all potential suppliers are given the same information to prepare their bids.<sup>65</sup> All suppliers are treated equally and there is no discrimination between products on the basis of origin; where appropriate, consulates and overseas trade commissions may be notified of the calls for tenders. In drawing up tender specifications, the authorities ensure that the characteristics laid down for the products or services do not create unnecessary obstacles to trade. To promote competition, works and services contracts, for instance, are normally split into optimal scale to avoid excessive market concentration.

173. Open and competitive tendering is the norm. However, selective tendering is normally adopted for works contracts due to professional and financial capability requirements and magnitude: contractors on the relevant approved list, which is established through open and transparent procedures, are invited to tender.<sup>66</sup> Restricted or single tendering are used only under specified circumstances, such as when strictly necessary to ensure compatibility with existing equipment or to protect patented or proprietary products.

174. The Financial Secretary has appointed several tender boards to consider and decide on the acceptance of tenders. The Central Tender Board, chaired by the Permanent Secretary for Financial Services and the Treasury (Treasury), deals with tenders exceeding HK\$10 million for supplies and general services, and exceeding HK\$30 million for construction services. Tenders below these thresholds are dealt with by the subsidiary tender boards.<sup>67</sup> When evaluating a tender, the authorities take into account price competitiveness, as well as compliance with users' requirements, reliability of performance, best quality, whole-life costs, and after-sales support, where applicable.

175. As a signatory to the WTO Agreement on Government Procurement, since its establishment on 30 December 1998, an independent Review Body on Bid Challenges has handled complaints in this area. Hong Kong, China's government procurement system has an independent scrutiny mechanism to ensure accountability. This includes the Audit Commission headed by the Director of Audit, the Office of the Ombudsman, the Independent Commission Against Corruption, and the LegCo. Any supplier or contractor with a grievance may also lodge a complaint with the procuring department or the relevant tender board and/or the Office of the Ombudsman. Suppliers or contractors making an allegation of corruption can approach the Independent Commission Against Corruption. In addition, the GLD has an independent section that functions as an internal audit.

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<sup>65</sup> Key information on all tenders is published in the *Government Gazette* (<http://www.gld.gov.hk/cgi-bin/gld/egazette/index.cgi?lang=e&agree=0>) and supplemented by notices (<http://www.fstb.gov.hk/tb/eng/procurement/tender01a.html>). Forecast of invitations to tender for works contracts are published in the *Works Digest* ([http://www.devb-wb.gov.hk/press\\_releases\\_and\\_publications/publications/digest/index.aspx?langno=1&nodeid=853](http://www.devb-wb.gov.hk/press_releases_and_publications/publications/digest/index.aspx?langno=1&nodeid=853)).

<sup>66</sup> The lists and the method for admission are published on the Development Bureau website and annually in the *Government Gazette*. Contractors can apply for admission to the approved lists any time. Moreover, tender invitations under selective tendering are published in the *Government Gazette* and on the internet. Tenders from tenderers not on the lists of approved contractors will also be considered provided there is sufficient time for the procuring bureaux and departments to complete the qualification procedures. Selective tendering is therefore considered as equivalent to an open tendering process.

<sup>67</sup> The Government Logistics Department Tender Board for tenders, except public works contracts, not exceeding HK\$10 million; the Public Works Tender Board for tenders for public works and related contracts not exceeding HK\$30 million; and the Marine Department Tender Board for marine tenders not exceeding HK\$5 million.

## 3.7. Transparency

### 3.7.1. Transparency in the Administrative Law

176. The Government is committed to:

- (a) ensuring equality for all before the law, judicial independence and that the rule of law prevails in all spheres of society;
- (b) respecting the rights and dignity, and to safeguard the freedoms of each individual; and
- (c) maintaining a highly transparent and accountable government which supports civic participation.

177. Hong Kong, China maintains a high level of transparency of laws, regulations and administrative procedures. Statutory notices for appointment of public offices, departmental notices and public tenders; ordinances, regulations and bills; periodical lists for professionals, institutions, etc; draft bills and executive orders; and public notices are published regularly in the Government Gazette. Electronic version of the Government Gazette is available free of charge on the Internet<sup>68</sup>.

178. All primary and subsidiary legislation (and their amendments) are published in the Government Gazette and in the Laws of Hong Kong. They are also available free of charge on the Internet under the Bilingual Laws Information System (BLIS)<sup>69</sup>. Judgments which are of significance as legal precedents and of public interests, delivered between 1946 and 1948, and from 1996 onwards, by the Court of Final Appeal, High Court (Court of Appeal and Court of First Instance), District Court, Family Court and Lands Tribunal are available on the Internet<sup>70</sup>; and lists of the major bilateral agreements of Hong Kong, China and the multilateral treaties applying to Hong Kong, China are available on the Internet<sup>71</sup>. Administrative procedures, particularly those relating to trade and investment, are widely publicized.

179. It is Government's policy to make available as much information as possible so that the public can better understand how public policies are formulated and implemented. The Government also provides information to the public about the Government routinely or on request according to the "Code on Access to Information"<sup>72</sup>. The Code enshrines the policy that the Government will make available information that it holds – unless there are valid reasons (related to public, private or commercial interests) to withhold it.

180. In addition to the various levels of courts and tribunals which form the Judiciary of Hong Kong, China, a number of ordinances establish tribunals to deal specifically with appeals against administrative decisions made under the ordinances in question. Further, the Administrative Appeals Board Ordinance, which came into force in 1994, provides for the establishment of an independent Administrative Appeals Board. The Board deals with a wide range of statutory appeals against certain administrative decisions. The Board comprises people with legal expertise and a wide spectrum of experience. It may confirm,

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<sup>68</sup> <http://www.gld.gov.hk/cgi-bin/gld/egazette/index.cgi?lang=e&agree=0>

<sup>69</sup> <http://www.doj.gov.hk/eng/laws/>

<sup>70</sup> <http://legalref.judiciary.gov.hk/lrs/common/ju/judgment.jsp>

<sup>71</sup> <http://www.legislation.gov.hk/choice.htm>

<sup>72</sup> <http://www.info.gov.hk/access/>

vary or reverse the original decision of the decision maker or substitute therefor such other decision or make such other order as it may think fit. As a general rule, it conducts hearings in public. It allows parties to an appeal the right to attend and be represented at Board hearings. The Board is required to state in writing the reasons for its decisions.

181. Established by the Ombudsman Ordinance, the Office of the Ombudsman is Hong Kong, China's independent watchdog of public administration. The Ombudsman investigates actions by Government departments and public bodies for administrative deficiencies and recommends remedial measures. It fosters good public administration that is fair, open, accountable and responsive. The Ombudsman has powers to investigate complaints of maladministration by Government departments and a number of public bodies listed in Part I of Schedule 1 to The Ombudsman Ordinance. The Ombudsman may also, in the absence of complaints, initiate direct investigation into significant issues and areas of systemic maladministration.

### 3.7.2. Transparency in Free Trade Agreements

182. In accordance with the mechanism for notification of WTO regional trade agreements, Hong Kong, China has duly notified the related WTO bodies of the signing of CEPA and its subsequent five Supplements<sup>73</sup>. The legal texts of CEPA and its Supplements are widely published and are available on the designated CEPA website of the TID at [http://www.tid.gov.hk/english/cepa/legaltext/cepa\\_legaltext.html](http://www.tid.gov.hk/english/cepa/legaltext/cepa_legaltext.html).

## **3.8. Movement of Business Persons**

### **(A) IMMIGRATION CONTROL**

183. Hong Kong, China welcomes visitors and adopts a liberal visa policy. People from about 170 countries and territories can enter Hong Kong, China visa-free for visits lasting between seven and 180 days. The number of people entering and leaving Hong Kong, China in the first eleven months of 2008 was 203 million, 2.8 per cent up on the number for the same period in 2007. Over 151 million people travelled by land, mostly to and from the Mainland.

184. The passenger e-Channels have been introduced in phases at all control points since late 2004 for use by eligible Hong Kong residents holding smart identity cards, and extended to cross-boundary primary school students under the age of 11 in December 2007. Since May 2008, visitors aged 18 or above holding valid HKSAR Travel Passes, Asia-Pacific Economic Cooperation (APEC) Business Travel Cards with the economy code 'HKG' or Hong Kong International Airport Frequent Visitor Cards and have enrolled with the Immigration Department may also enjoy e-Channel facilities. Vehicular e-Channels had also been installed at all vehicular control points to facilitate eligible cross-boundary drivers to make use of smart identity cards for automated clearance.

### **(B) CAPITAL INVESTMENT ENTRANT SCHEME**

185. The Capital Investment Entrant Scheme was launched in October 2003. Its objective is to facilitate the entry of people who make capital investments in Hong Kong, China but would not engage in running of the business. The scheme is applicable generally to foreign nationals, Macao Special Administrative Region (SAR) residents, Chinese

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<sup>73</sup> The notification for Supplement VI to CEPA is being prepared.

nationals who have obtained permanent resident status in a foreign country, and residents of Taiwan. Successful applicants are required to invest in Hong Kong, China not less than HK\$6.5 million in real estate or permissible financial assets, such as equities or debt securities. By end of November 2008, a total of 3,219 applicants had been granted formal approval under the scheme. They have invested a total of \$23 billion, about \$7.1 million per applicant.

### **(C) ENTRY FOR EMPLOYMENT**

186. Hong Kong, China maintains an open and liberal policy towards entry into the city for employment as professionals. There is no sectoral restriction or quota under the admission arrangements. People with special skills, knowledge or experience of value to and not readily available in Hong Kong, China, or who are in a position to make substantial contributions to the economy, are welcome. Since the reunification of the HKSAR with the Mainland in 1997, over 220,000 non-local talent and professionals have been admitted for working in Hong Kong, China via various admission arrangements.

### **(D) MOVEMENT OF BUSINESS PERSONS UNDER APEC**

187. Hong Kong, China implemented the APEC Business Travel Card (ABTC) Scheme since April 2001. Holders of ABTC who have been pre-cleared by Hong Kong, China enjoy streamlined immigration clearance. From January to November 2008, 3,423 ABTCs had been issued to Hong Kong residents and 25,889 pre-clearance requests made by other participating economies had been granted.

## **3.9. Intellectual Property Rights (IPR)**

### **3.9.1. Hong Kong, China policy regarding the main IPR Treaties that are applicable to the HKSAR**

188. The Convention Establishing the World Intellectual Property Organization (WIPO) and other international conventions on intellectual property are applicable to the HKSAR.<sup>74</sup> As Hong Kong, China is not a sovereign State, application has been extended to the territory through China. Nonetheless, Hong Kong, China formulates its own policies, laws, and administrative arrangements to protect IPRs.<sup>75</sup> It operates independent trade marks, designs, and patent registries<sup>76</sup>, and matters relating to the grant, administration or litigation of trade marks, patents, and designs are decided within the territory. The intellectual property system of the HKSAR is thus separate from the system operating in the Mainland. Patent and design rights granted by the State Intellectual Property Office of China, or trade marks

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<sup>74</sup> These include the Paris Convention for the protection of industrial property; the Berne Convention for the protection of literary and artistic works; the Universal Copyright Convention; the Geneva Convention for the Protection of Producers of Phonograms against Unauthorised Duplication of their Phonograms; the Patent Cooperation Treaty; the Convention establishing the World Intellectual Property Organization (WIPO); the Agreement on Trade-Related Aspects of Intellectual Property Rights; the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty (collectively referred to as the "Internet Treaties").

<sup>75</sup> The Basic Law, in Articles 139 and 140, stipulates that the HKSAR Government should on its own formulate policies and provide legal protection for IPRs.

<sup>76</sup> The Intellectual Property Department is responsible for operating the Trade Marks, Patents, Registered Designs and Copyright Licensing Bodies Registries in Hong Kong, China. The department rolled out a range of e-services to realise the vision of convenient, efficient and high quality registration services. At present, services such as search, filing, publication and payment for trademarks, patents and designs business are available on the Internet.

registered in the Chinese Trade Marks Office, are not automatically protected in the HKSAR.<sup>77</sup>

189. Hong Kong, China is committed to protecting intellectual property rights (IPR). This commitment is underpinned by our respect for private economic rights and our recognition of the importance of IPR protection regime to our economic growth.

190. We achieve this through comprehensive legislation, rigorous enforcement action, sustained public education, and close co-operation with rights owners and other law enforcement agencies.

**(A) COMPREHENSIVE LEGISLATION**

191. Hong Kong, China has comprehensive legislation for the protection of patents, trade marks, copyright, registered designs, layout-designs (topographies) of integrated circuits and plant varieties. Our IPR laws fully comply with the international standards laid down in the Agreement on Trade-Related Aspects of Intellectual Property Rights (“TRIPS”).

192. We keep our laws under constant review to ensure that they meet the needs of the changing environment. Some of the major revisions to the IPR laws made in the past two years include -

- (a) Major amendments were made to the Copyright Ordinance in July 2007 to (i) provide new civil and criminal liability to enhance copyright protection (including the new business end-user copying/distribution criminal liability for printed works as well as civil and criminal liability against circumvention of technological measures that protect copyright); (ii) make the copyright exemption regime more flexible (including new permitted acts for the education sector and persons with print disability); (iii) relax the restrictions on parallel importation of copyright works; (iv) introduce rental rights for films and comic books; and (iv) strengthen the enforcement of rights; and
- (b) Amendments to the Patents Ordinance were made in November 2007 to implement the compulsory licensing scheme under Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health and the Protocol amending WTO’s TRIPS Agreement, upon its acceptance by the requisite number of WTO members.

193. To strengthen copyright protection in the digital environment, we embarked on a consultation exercise in December 2006. After analysing the public views received, we released our preliminary proposals in April 2008 and sought public views on issues including the introduction of an all-embracing right of communication in electronic transmission with ancillary criminal sanctions, the role of online service providers in combating Internet piracy, and measures for facilitating the pursuit of civil actions against Internet piracy. We are engaging the stakeholders through various platforms with a view to building consensus on the way forward.

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<sup>77</sup> WTO document IP/N/1/HKG/2/Add.1, 29 February 2000.

**(B) RIGOROUS ENFORCEMENT ACTION**

**(i) Copyright Piracy**

194. Under the rigorous enforcement of the Hong Kong Customs, the piracy situation in Hong Kong, China is firmly under control. At the retail level, the number of retail shops selling pirated optical discs (POD) has been reduced from over 100 in 2002 to below 30, with the circulation of PODs reduced from 20,000 to below 900.

195. Hong Kong Customs has two Anti-Internet Piracy Teams (AIPT) to fight against infringing activities in the cyber world. One criminal case of particular importance concerns copyright infringement using a “peer-to-peer” (P2P) file-sharing program known as BitTorrent (BT). The defendant was convicted before a magistrate in October 2005 and sentenced to three months’ imprisonment. The defendant’s subsequent appeal was dismissed by the Court of Final Appeal in May 2007. The conviction gives a strong deterrence against similar infringing activities. Moreover, copyright owners have also resorted to civil actions against infringers on P2P networks.

196. Since 1 April 2001, Hong Kong Customs has been actively enforcing the end-user criminal provisions of the Copyright Ordinance. The targets include companies using pirated software and karaoke bars using infringing music videos in the course of their business.

**(ii) Trademark Counterfeiting**

197. Trademark counterfeiting remains firmly under control. For the local retail market, only some low-level sales activities of a limited scale by hawkers are found in certain black spots.

**(iii) Application of the Organized and Serious Crime Ordinance**

198. To effectively combat the piracy and counterfeiting activities controlled by organized crime groups, Hong Kong Customs has made use of the Organized and Serious Crimes Ordinance (OSCO), which provides greater powers to investigate IPR offences and to trace and restrain the financial assets and proceeds from such offences. Under the OSCO, the Customs may also apply to the court for imposing heavier penalties on the offenders and the confiscation of their financial assets and crime proceeds. By cutting the bloodline of the pirate and counterfeit syndicates, we have denied their capability to remain in such illicit trade. Since 2004, the Customs has applied OSCO to freeze the crime proceeds of nine syndicates (eight involving copyright piracy and one trademark counterfeiting). The total value of crime proceeds restrained is \$107 million. Between 2004 and 2008, crime proceeds of about \$106.8 million have been restrained in seven IPR cases.

**(C) SUSTAINED PUBLIC EDUCATION**

199. We have on-going and substantial public education programmes to enhance public awareness of the importance of IPR. The Intellectual Property Department conducts benchmark surveys (one targeting the general public since 1999 and the other targeting the business community since 2004). An annual budget of about HK\$8 million (that is, around US\$1 million) is allocated for public education purposes. For 2009-2010, the HKSAR Government will spend an additional sum of about HK\$3 million (that is, around US\$0.38 million) to offer SMEs free intellectual capital management consultancy services from March 2009 to January 2010. Such consultancy services will assist SMEs to cultivate and manage

their intellectual capital, which would bring a long-term economic benefit to our economy as a whole.

#### **(D) CLOSE CO-OPERATION WITH RIGHTS OWNERS AND OTHER LAW ENFORCEMENT AGENCIES**

200. We liaise closely with IPR owners to solicit their assistance in fighting copyright piracy and trade mark counterfeiting. We also maintain regular liaison with other enforcement agencies in the region to prevent cross-boundary infringing activities.

#### **3.9.2. Geographical Indications**

201. Geographical indications are protected in Hong Kong, China if registration of the indication as a certification mark or a collective mark has been sought. An application for registration of a certification mark or a collective mark has to be filed with the Trade Marks Registry. In addition to the requirements for an application for registration of an ordinary trade mark, the applicant has to submit a set of the regulations governing the use of the mark, in the case of a collective mark, by members of the association and, in the case of a certification mark, by the parties authorised by the certifying organization to use the mark. Upon registration, the regulations have to be made open for public inspection and amendment can only be made upon approval by the Registrar of Trade Marks. Registration is for a period of 10 years and is renewable for successive terms of 10 years each.

### **3.10. Environment and International Trade**

202. Environmental protection is a major policy area for the HKSAR Government. The policy initiative is important for the building of a quality city and a quality life for local citizens, as explained by the Chief Executive in his 2008 Policy Address. Tackling air pollution, stepping up action to improve water quality in Victoria Harbour, better managing municipal solid waste, promoting energy efficiency and strengthening further regional cooperation continue to be a government priority. Through the ‘I love Hong Kong! I love green!’ campaign activities, the public is encouraged to make a change in various aspects of daily living and to nurture a greener and more environmentally friendly lifestyle.

#### **(A) LEGISLATION AND POLLUTION CONTROL**

203. Hong Kong, China has eight ordinances on pollution control. They are the Waste Disposal Ordinance, the Water Pollution Control Ordinance, the Air Pollution Control Ordinance, the Noise Control Ordinance, the Ozone Layer Protection Ordinance, the Dumping at Sea Ordinance, the Environmental Impact Assessment Ordinance and the Hazardous Chemicals Control Ordinance. Most of them have subsidiary regulations and other statutory provisions such as technical memoranda.

204. The Government follows a set of environmental quality objectives to better protect public health and to preserve a natural ecosystem. The cost of imposing limits on polluting emissions is not higher than is needed to achieve conservation goals. These goals include making maximum use of the environment’s natural capacity to absorb and recycle waste.

205. The Stockholm Convention on Persistent Organic Pollutants (the Stockholm Convention), became effective to Hong Kong, China in November 2004 and the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (the Rotterdam Convention) became effective in August

2008. A local legislation, the Hazardous Chemicals Control Ordinance, came into operation in April 2008 to regulate the import, export, manufacture and use of non-pesticide hazardous chemicals, including those subject to the regulation of the Stockholm Convention and the Rotterdam Convention.

206. The Environmental Protection Department also works with the construction industry, the catering industry, the vehicle repair industry, the property management sector and other trades to promote good environmental practices and compliance with pollution control regulations.

207. The department runs a Compliance Assistance Centre (CAC) where different businesses may obtain updated information and advice on environmental compliance, pollution prevention and environmental management.

## **(B) SUSTAINABLE DEVELOPMENT**

208. The Council for Sustainable Development was appointed by the Chief Executive in March 2003 to promote sustainable development in Hong Kong, China. The Council has so far addressed five key sustainability issues, namely solid waste management, renewable energy, urban living space, population policy and better air quality, since launching its first public engagement exercise to consult stakeholders in 2004. The Council conducted the public engagement process on air quality from June to October 2007, and submitted a report with recommendations on the way forward to the Government in early 2008. The Government has earlier released its response to the Council's Report on the Better Air Quality Engagement Process. It fully agrees with the Council that a holistic and comprehensive approach is required to combat air pollution. To this end, the Government is reviewing Hong Kong, China's Air Quality Objectives and developing a long-term air quality management strategy to help protect the health of the public from the effect of air pollution. The review is expected to complete in 2009. The Council has invited six rounds of applications from organisations and individuals for grants from the Sustainable Development Fund since 2003 to carry out work related to sustainable development. Twenty-six projects were approved in the first five rounds, involving grants of \$21.8 million, 16 of them have been completed so far.

209. To facilitate the integration of sustainability considerations in the decision-making process, the Government has adopted a sustainability assessment system since 2002, the implementation of which is overseen by the Sustainable Development Division. All bureaux and departments are required to conduct sustainability assessments of their major initiatives and programmes and to explain the sustainability implications in their submissions to the Policy Committee and Executive Council.

## **3.11. Labour and International Trade**

### **(A) LABOUR LEGISLATION AND LABOUR STANDARDS**

210. The Government keeps up the momentum in improving working conditions, occupational safety and health and employees' rights and benefits through an extensive programme of labour legislation.

211. Hong Kong, China aims at applying relevant international labour Conventions as the local circumstances allow. As at the end of 2008, Hong Kong, China has applied 41 Conventions, which compares favourably with other economies in the region.

## **(B) WORKING CONDITIONS**

212. The Employment Ordinance provides the framework for a comprehensive code of employment. It governs the payment of wages, the termination of employment contracts and the operation of employment agencies. The law provides statutory holidays with pay, sickness allowance, maternity protection, rest days, paid annual leave and employment protection for employees. All employees have statutory protection against anti-union discrimination. The law also provides for severance payment to workers made redundant, and long service payment to workers with long service who are dismissed for reasons other than redundancy or on disciplinary grounds, who die in service or resign on grounds of ill health or old age. Employees who are owed wages, wages in lieu of notice and/or severance payment by insolvent employers may apply for ex-gratia payment from the Protection of Wages on Insolvency Fund which is financed by an annual levy on business registration certificates.

213. The Employment of Children Regulations prohibit the employment of children aged under 15 in all industrial undertakings. Subject to certain protective restrictions, children aged 13 and 14 who are attending school may take up part-time employment in the non-industrial sectors. The Employment of Young Persons (Industry) Regulations govern the employment conditions of young persons aged 15 to 17 in industrial undertakings. These young persons are not allowed to work more than eight hours a day and 48 hours a week. Overtime work for them is prohibited.

214. Labour inspectors of the Labour Department conduct workplace inspections to monitor employers' compliance with various labour legislation to safeguard the rights and benefits of local and imported workers.

## **(C) TRADE UNIONS AND INDUSTRIAL RELATIONS**

215. Hong Kong, China residents have the right and freedom to form and join trade unions. At the end of 2008, there were 796 registered trade unions, consisting of 752 employees' unions, 19 employers' associations and 25 mixed organisations of employers and employees. Hong Kong, China has an outstanding record of industrial peace. In 2008, there were four work stoppages, and the number of working days lost was 1,408. It lost only 0.46 working day per 1,000 workers, which is among the lowest in the world. During the year, the Labour Department dealt with 20,743 labour claims and disputes, down 4.9% on 2007. Most of the claims were related to wages in arrears, wages in lieu of notice and holiday pay.

## **(D) MINOR EMPLOYMENT CLAIMS ADJUDICATION BOARD**

216. To speed up the settlement of minor employment claims, the Minor Employment Claims Adjudication Board was set up in the Labour Department in 1994 for the adjudication of rights claimed under the Employment Ordinance and in accordance with individual employment contracts. The board hears claims by not more than 10 claimants for a sum not exceeding HK\$8,000 per claimant. Hearings are conducted in public and procedures are simple and informal. Claims by more than 10 claimants, or more than HK\$8,000 for at least one of the claimants, are heard by the Labour Tribunal.

## **(E) LABOUR TRIBUNAL**

217. The tribunal comes under the Judiciary and provides a quick, inexpensive and informal forum for settling labour disputes. It hears employment claims for a sum of money

arising from the breach of the terms of a contract of employment or the failure to comply with the Employment Ordinance or the Apprenticeship Ordinance.

**(F) WAGES**

**Legislating for a Statutory Minimum Wage**

218. The Government will introduce a bill on statutory minimum wage into the LegCo in the 2008-09 legislative session. The legislation seeks to safeguard the well-being of workers at the grassroots level and forestall the phenomenon of excessively low wage.

## **4. TRADE AGREEMENTS SIGNED BY HONG KONG, CHINA AND CHILE**

### **4.1. Bilateral/Regional or Groups of Countries**

219. So far, Hong Kong, China has concluded a Closer Economic Partnership Agreement (CEPA) with the Mainland.

### **4.2. Major Issues Covered in the Trade Agreements Signed**

220. Discussions on the CEPA came to fruition when it was signed on 29 June 2003. CEPA is the first FTA ever concluded by the Mainland and Hong Kong, China. Following the full implementation of the main text and the six annexes of CEPA<sup>78</sup> on 1 January 2004, the two sides have reached agreement on six Supplements regarding further trade liberalisation measures from 2004 to 2009<sup>79</sup>. The liberalisation measures of the six Supplements to CEPA came into full implementation on 1 January 2005, 1 January 2006, 1 January 2007, 1 January 2008, 1 January 2009 and 1 October 2009 respectively.

221. CEPA covers three broad areas, namely trade in goods, trade in services, and trade and investment facilitation.

222. In respect of trade in goods under CEPA, the Mainland agreed to fully implement zero tariff on all imported goods of Hong Kong, China origin (except for prohibited import items) from 1 January 2006, upon applications by local manufacturers and upon the CEPA rules of origin (ROOs) being agreed and met. As at 31 May 2009, both sides have reached agreement on the CEPA ROOs for 1,565 Mainland HS items of goods. For goods that have no agreed ROOs for the time being, their relevant ROOs will be jointly worked out by the two sides on applications by the trade.

223. In order to claim for the zero tariff preference under CEPA, each consignment of goods exported to the Mainland has to be supported by a Certificate of Hong Kong Origin - CEPA ("CO(CEPA) ") issued by the TID or one of the Government Approved Certification Organizations (GACOs)<sup>80</sup>.

224. On trade in services, Hong Kong, China service suppliers can enjoy preferential access in 42 service areas in the Mainland market: accounting, advertising, air transport (supporting and auxiliary transport services), audiovisual, banking, building cleaning, computer and related services, cultural, convention and exhibition, distribution, environmental, freight forwarding agency, individually owned stores, information technology, insurance, job referral agency, job intermediary, legal, logistics, management consulting,

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<sup>78</sup> The main text of CEPA was signed on 29 June 2003 and its six Annexes on 29 September 2003 in Hong Kong.

<sup>79</sup> Between 2004 and 2008, the two sides signed six Supplements to CEPA in Hong Kong:

- Supplement to CEPA: 27 October 2004
- Supplement II to CEPA: 18 October 2005
- Supplement III to CEPA: 27 June 2006
- Supplement IV to CEPA: 29 June 2007
- Supplement V to CEPA: 29 July 2008
- Supplement VI to CEPA: 9 May 2009

<sup>80</sup> The GACOs are the Hong Kong General Chamber of Commerce; Federation of Hong Kong Industries; the Chinese Manufacturers' Association of Hong Kong, the Chinese General Chamber of Commerce and the Indian Chamber of Commerce, Hong Kong.

market research, medical and dental, patent agency, photographic, printing, professional qualification examinations, public utility, real estate and construction, related scientific and technical consulting services, rail transport, research and development, storage and warehousing, securities and futures, services incidental to mining, services related to management consulting, social services, sporting, telecommunications, tourism, trade-mark agency, translation and interpretation and transport (including road freight/passenger transportation and maritime transport).

225. Both sides have also agreed to enhance co-operation in a total of nine trade and investment facilitation areas (trade and investment promotion; customs clearance facilitation; commodity inspection and quarantine, food safety and quality and standardisation; electronic business; transparency in laws and regulations; co-operation of SMEs; co-operation in Chinese traditional medicine industry; protection of intellectual property and co-operation on branding). CEPA also strengthens cooperation and information sharing in the area of finance (banking, insurance, securities, and futures), and enhances cooperation in tourism promotion, mutual recognition of professional qualifications, and exchange of professional talents.

226. Legal text of CEPA and its Supplements are available on the designated CEPA website of the TID at [http://www.tid.gov.hk/english/cepa/legaltext/cepa\\_legaltext.html](http://www.tid.gov.hk/english/cepa/legaltext/cepa_legaltext.html).

## **5. ANALYSIS OF THE EFFECTS OF TARIFF REDUCTION ON CHILE/HONG KONG, CHINA IMPORTS, EXPORTS AND INVESTMENT**

### **5.1. Introduction**

227. This section analyses the possible effects that a possible FTA between Hong Kong, China and Chile may bring about to the bilateral trade in goods, trade in services and investment between the two economies.

228. Hong Kong, China is one of the world's major trading entities while Chile is a thriving economy in South America. Trade has been in a clear growing trend between the two economies though the absolute value is not particularly impressive. We are confident that a possible FTA between Hong Kong, China and Chile will be instrumental in fostering closer economic ties between the two economies. It will further strengthen the linkage between Hong Kong, China and Chile, and offer a wealth of opportunities for exporters of both sides to explore new services markets, to expand existing exports and to improve the environment for bilateral investment and business mobility.

229. In order to enable a more systematic analysis of the possible effects of a possible FTA between the two economies, Hong Kong, China adopts the World Integrated Trade Solution model to analyse the effect of tariff reduction subsequent to a possible FTA to the bilateral trade in goods, coupled with qualitative analysis on the effects of a possible FTA to the bilateral trade in goods, trade in services and investment.

### **5.2. Bilateral Liberalization of Trade in Goods**

#### **5.2.1. Analysis**

230. Hong Kong, China is consistently ranked as the freest economy in the world. There is no import tariff imposed on all types of goods. With our free and open trade policy, Hong Kong, China is an internationally recognised important importer and exporter of goods. According to the WTO, Hong Kong, China was the world's 8<sup>th</sup> largest trading entity in 2008 in terms of value of merchandise trade. It was also the world's 7<sup>th</sup> largest importer and 8<sup>th</sup> largest exporter.

231. The total value of all trade in goods (including imports, re-exports and domestic exports) of Hong Kong, China grew from HK\$3,548 billion (US\$456 billion) in 2003 to HK\$5,849 billion (US\$751 billion) in 2008, representing a remarkable increase of about 65%.

232. In 2008, our major import items were electronic products (48%), textiles and clothing (8%), toys and dolls (3%), watches and clocks (2%), plastic products (2%), and jewellery, goldsmiths' and silversmiths' ware (1%). In terms of domestic exports, textiles and clothing (28%), electronic products (19%), jewellery, goldsmiths' and silversmiths' ware (10%), printed matter (3%) and plastic products (1%) were our major export items.

233. Hong Kong, China and Chile have long maintained good bilateral trade relations. In 2008, Chile ranked 46<sup>th</sup> among Hong Kong, China's worldwide trading partners and 4<sup>th</sup> among Hong Kong, China's trading partners in Central and Southern Americas.

234. Hong Kong, China's major domestic exports to Chile include telecommunications and sound recording and reproducing apparatus and equipment; office machines and automatic data processing machines; articles of apparel and clothing accessories; non-ferrous metals; and musical instruments and parts and accessories thereof, records, tapes and other sound or similar recordings.

235. On the other hand, vegetables and fruit; meat and meat preparations; fish (not marine mammals), crustaceans, molluscs and aquatic invertebrates, and preparations thereof; beverages; and metalliferous ores and metal scrap are Chile's major import items to Hong Kong, China.

236. Bilateral trade in goods between the two economies was growing at an annual average rate of 5% during 2003 to 2008 from HK\$3,485 million in 2003 to HK\$4,622 million in 2008. With bilateral trade between the two places growing steadily, there is certainly good potential for further enhancement of this economic and trade relationship.

**Table V.1**  
**Total merchandise trade of Hong Kong, China (HKC) and Chile with the World**

Figures in \$US million

	HKC*		Chile	
	2007	2008	2007†	2008#
<b>Total trade</b>	712,155	751,180	109,668	123,017
<b>Total exports</b>	344,509	362,675	66,719	66,456
<b>Imports</b>	367,647	388,505	42,949	56,561

Notes :

\* Figures extracted from Hong Kong External Merchandise Trade, Dec 2008, Census and Statistics Department, HKSAR Government.

† Figures extracted from Chile-Hong Kong, China Joint Study Group on the Feasibility of a Free Trade Agreement : First Report by Chile (draft), Santiago, February 2009.

# Central Bank of Chile.

237. An assessment of the likely tariff reduction effects on trade between Hong Kong, China and Chile due to the Hong Kong, China-Chile FTA was conducted, using the World Integrated Trade Solution (WITS) model. The WITS is a model developed by the World Bank in collaboration with the United Nations Conference on Trade and Development (UNCTAD). It brings together various databases including those on bilateral trade and commodity trade flows to analyse the tariff effects on trade between the affected economies.

238. Assuming under the Hong Kong, China-Chile FTA, Chile will remove all tariffs on imports from Hong Kong, China from the existing 6% to zero. With this assumption, imports to Chile from Hong Kong, China are estimated to increase by about 14% or US\$4.5 million (Table V.2). The increase captures both the trade creation effect, i.e. direct increase in imports due to cut in tariff rates, and the trade diversion effect, i.e. revised distribution of market shares between exporters due to change in relative prices after tariff change.

239. The above estimation covers products (at Hong Kong Harmonised System code two digits level) which took up 1% or more of Hong Kong, China's domestic exports to Chile in 2008. A list of those products concerned is set out in Table V.3. These products together accounted for over 98% of Hong Kong, China's domestic exports to Chile and should represent a meaningful sample.

**Table V.2**  
**Results of the trade to tariff change effects at product level**

Hong Kong HS Code	Product	Estimated rate of increase <sup>1</sup>			Value of Chile's Imports from HKC in 2008 (USD)	Estimated increase in Chile's Imports from HKC		
		Trade Creation (%)	Trade Diversion (%)	Total Effect (%)		Trade Creation (USD)	Trade Diversion (USD)	Total Effect (USD)
39	Plastics and Articles Thereof	5.9%	8.4%	14.3%	1,458,544	86,054	122,518	208,572
52	Cotton	7.2%	7.7%	14.9%	175,564	12,641	13,518	26,159
61	Articles Of Apparel And Clothing Accessories, Knitted Or Crocheted	4.7%	8.4%	13.1%	2,332,940	109,648	195,967	305,615
62	Articles Of Apparel And Clothing Accessories, Not Knitted Or Crocheted	7.2%	8.3%	15.5%	2,918,981	210,167	242,275	452,442
76	Aluminium And Articles Thereof <sup>2</sup>	22.4%	8.3%	30.7%	265,787	59,536	22,060	81,597
84	Nuclear reactors, boilers, machine and mechanical appliances; parts thereof	4.4%	8.2%	12.6%	3,304,081	145,380	270,935	416,314
85	Electrical machinery and equipment and parts thereof; sound recorders and reproducers, and parts and accessories of such articles	4.9%	8.3%	13.2%	12,898,448	632,024	1,070,571	1,702,595
95	Toys, Games And Sports Requisites; Parts And Accessories Thereof	5.5%	8.4%	13.9%	594,315	32,687	49,922	82,610
	Other commodities	5.8%	8.0%	13.8%	8,926,818	517,755	714,145	1,231,901
	<b>Total</b>	<b>5.5%</b>	<b>8.2%</b>	<b>13.7%</b>	<b>32,875,478</b>	<b>1,805,892</b>	<b>2,701,913</b>	<b>4,507,805</b>

Notes :

- 1 Estimated rates of increases for major products (those with % share over 1% in HKC 's domestic exports to Chile in 2008, see Table V.3) are obtained from running the WITS program on Chile-HKC bilateral trade data in 2007 provided by the Chile government (2008 data are not yet available in the WITS).
- 2 The creation effect for HS Heading 76 is on the high side due to the high import demand elasticity of the product 761090 (aluminium structure and parts etc.)

**Table V.3**  
**List of products accounting for 1% or more of HKC's domestic exports to Chile**

Hong Kong Harmonised System Code	Products	% share in HKC's domestic exports to Chile in 2008
39	Plastics and Articles Thereof	2%
52	Cotton	2.3%
61	Articles Of Apparel And Clothing Accessories, Knitted Or Crocheted	5.6%
62	Articles Of Apparel And Clothing Accessories, Not Knitted Or Crocheted	1.9%
76	Aluminium And Articles Thereof	4.1%
84	Nuclear reactors, boilers, machine and mechanical appliances; parts thereof	12.9%
85	Electrical machinery and equipment and parts thereof; sound recorders and reproducers, and parts and accessories of such articles	68.4%
95	Toys, Games And Sports Requisites; Parts And Accessories Thereof	1.0%
	<b>Sum total =</b>	<b>98.2%</b>

240. The major assumptions used in the WITS include the import demand elasticity, substitution elasticity and supply elasticity. Table V.4 summarises the major assumptions used. They are basically the default assumptions adopted in the WITS.

**Table V.4**  
**Major assumptions used in the World Integrated Trade Solution (WITS)**

1) Default demand elasticities are used. The average default values for the products selected in this exercise are as follows:

Hong Kong HS Code	Products	Trade-weighted average default demand elasticity
39	Plastics and Articles Thereof	1.04
52	Cotton	1.27
61	Articles Of Apparel And Clothing Accessories, Knitted Or Crocheted	0.83
62	Articles Of Apparel And Clothing Accessories, Not Knitted Or Crocheted	1.27
76	Aluminium And Articles Thereof	3.96
84	Nuclear reactors, boilers, machine and mechanical appliances; parts thereof	0.77
85	Electrical machinery and equipment and parts thereof; sound recorders and reproducers, and parts and accessories of such articles	0.87
95	Toys, Games And Sports Requisites; Parts And Accessories Thereof	0.97

2) Supply elasticity is set to 99 (perfectly elastic) by default.

3) Substitution elasticity, which measures the degree of substitution by imports from other countries, is set to 1.5 by default.

### 5.2.2. Conclusions

241. The current average tariff rate of Chile is 6%. Hong Kong, China's exporters will be able to enjoy tariff savings, if all of our domestic exports to Chile are granted a zero or a preferential tariff rate under the possible Hong Kong, China-Chile FTA. Under a preferential zero tariff rate, it is estimated that as far as goods which are currently traded between Chile and Hong Kong, China are concerned, imports to Chile from Hong Kong, China will increase by about 14% or US\$4.5 million. Consumers or producers in Chile will in turn benefit from cost reduction by importing products of Hong Kong, China. Similarly, depending on the negotiation of the FTA with Chile, Hong Kong, China may explore the possibility of increasing the binding rate of our tariffs from the current 45% in the WTO context. If so, it would increase the certainty for Chilean traders and provide them with further incentives for doing business in Hong Kong, China.

242. Apart from tariff reduction, a possible Hong Kong, China-Chile FTA can also bring positive growth in merchandise trade between the two economies through enhanced trade facilitation and trade promotion. For example, trade facilitation measures developed under a possible Hong Kong, China-Chile FTA would help reduce transaction cost of traders, and thus provide positive incentives to bilateral trade. Through trade promotion cooperative activities, our traders and investors could get a better understanding of the market situation and trade potential of the other side's market, and thus increase the transparency and certainty in trading goods with the other side's market. Improvement in the understanding of the market opportunities and reduction in transaction costs will not only stimulate growth of trade in goods currently transacted between Hong Kong, China and Chile, but will also result in trade creation effect. It is expected that trade of currently non-traded goods may be created with the conclusion of an FTA between Hong Kong, China and Chile, which in turn bring expanded business opportunities to traders of both Hong Kong, China and Chile.

243. With a possible Hong Kong, China-Chile FTA, both sides may enhance cooperation on other areas of mutual interest which will also encourage and provide a better environment for growth in bilateral trade, for example, intellectual property rights (IPR). Hong Kong, China is committed to protecting IPR. This commitment is underpinned by our respect for private economic rights and our recognition of the importance of IPR protection regime to our economic growth. With a possible Hong Kong, China-Chile FTA, the two sides may explore possible areas for cooperation, such as exchange of information and sharing of

experience on IPR protection and education. These cooperative initiatives will further strengthen the two sides' respective IPR regimes, and hence enhance traders' confidence in selling their goods in the other side's markets without the risk of suffering from piracy.

### **5.3. Bilateral Liberalization of Trade in Services**

#### **5.3.1. Analysis**

244. Hong Kong, China's services sector is among the most developed in East Asia. With the remarkable structural transformation over the past decade, the services sector has gained much prominence in the Hong Kong, China economy. In 2007, the services sector constituted a share of 92% of Hong Kong, China's GDP and 86.7 per cent of total employment. Key services sub-sectors in Hong Kong, China include the financing, insurance, real estate and business services (accounted for 29.3% of GDP in 2007), followed by wholesale, retail and import and export trades, restaurants and hotels (27.0%), community, social and personal services (17.0%), and transport, storage and communications (8.9%).

245. Hong Kong, China is a net exporter of services in overall terms with an overall surplus of HK\$330 billion (US\$42.3 billion) in 2007. Analysed by major service group, the largest surplus was recorded in merchanting and other trade-related services (54% as ratio to the overall surplus), followed by transportation services (26%), and financial services (24%). This suggests that Hong Kong, China have a strong edge as a services exporter in the region.

246. Hong Kong, China's trade in services, in particular exports of services, grew considerably in recent years. From 2003 to 2007, Hong Kong, China's exports of services grew from HK\$362.42 billion to HK\$660.73 billion, representing a remarkable increase of 82.3% in five years. Total trade in services grew from HK\$565.82 billion in 2003 to HK\$992.97 billion in 2007, representing a significant increase of 75.5%.

247. On the other hand, we note that Chile's services trade also experienced a significant growth in recent years. From 2003 to 2007, Chile's exports of services grew from US\$5,070 million to US\$8,786 million; and Chile's imports of services surged from US\$5,688 million to US\$9,947 million during the same period<sup>81</sup>. This suggests that both Hong Kong, China and Chile have an outstanding potential of growth in bilateral trade in services with each other.

248. Unfortunately, official statistics on the bilateral trade in services between Hong Kong, China and Chile are very limited, making quantitative assessment on the likely impact of a possible FTA between the two economies on the bilateral trade in services not feasible. Only statistics for year 2003 are available. In 2003, Hong Kong, China's exports of services to Chile amounted to HK\$287 million. It comprised mainly merchanting and other trade-related services, and transportation services, which accounted for 50.9% and 44.6% respectively. In the same year, imports of services from Chile amounted to HK\$82 million. Of which, almost 99% were merchanting and other trade-related services. In addition, available figures show that Hong Kong, China's exports in financial, merchanting, and other business and personal services to Central and South America are on the rise in recent years. From 2003 to 2007, the average annual growth of Hong Kong, China's exports in these services sectors to Central and South America was 33.4%, 32.7% and 43.2% respectively.

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<sup>81</sup> Source: Table 1.17 of Chile's Joint Feasibility Study report on Chile-Hong Kong, China FTA.

### 5.3.2. Conclusions

249. We consider that the impact of a Hong Kong, China-Chile FTA on trade in services between the two economies is three-fold. Firstly, while both Hong Kong, China and Chile do not maintain substantive restrictions on trade in services, it is expected that WTO-plus services commitments under a Hong Kong, China-Chile FTA will help bring about increase in services trade between the two places.

250. Secondly, the legally binding services commitments to be undertaken by both sides in the possible FTA would enhance the certainty and predictability for services traders of the two economies in doing business with the other party. This will not only increase the interests of serving services suppliers in further developing the existing services markets in the other party, but will also create incentives for potential services traders to explore the new market potential in services sectors of the other party.

251. Thirdly, we note that there is often a positive correlation between trade in services and trade in goods, as shown in the case of Hong Kong, China. From 2003 to 2007, Hong Kong, China's total trade in goods grew from HK\$3,548.21 billion to HK\$5,555.52 billion, representing an increase of 56.6%. Correspondingly, trade in services also registered an increase from HK\$565.82 billion to HK\$992.97 billion during the same period, representing a significant increase of 75.5%. As any growth in merchandise trade and investment flow will help bring about corresponding growth in the related supporting services, e.g. merchanting, transportation, distribution and financial services, it is therefore envisaged that the potential growth in bilateral merchandise trade and investment between Hong Kong, China and Chile arising from the possible Hong Kong, China-Chile FTA will stimulate growth in trade in services between the two economies as well.

## **5.4. Bilateral Liberalization of Investment**

### 5.4.1. Analysis

252. Hong Kong, China is a major destination for foreign direct investment (FDI) in Asia. According to the World Investment Report 2008 released by the United Nations Conference on Trade and Development (UNCTAD), Hong Kong, China ranked seventh in the world in FDI inflows in 2007, and was also the second largest recipient of FDI in Asia, after the Mainland. The figure of Hong Kong, China's FDI inflow in 2007 was HK\$423.9 billion (US\$54.3 billion), grew by 21% over 2006. The Mainland was Hong Kong, China's largest source of FDI. Hong Kong, China was classified in the UNCTAD Report as an economy with high FDI performance and high FDI potential.

253. There was remarkable growth in FDI inflows and outflows in recent years. For inward FDI, the investment position grew from HK\$2,622.3 billion at end of 2002 to HK\$9,186.5 billion at end of 2007, representing a growth of 250%. Similarly for outward FDI, the investment position grew from HK\$2,412.9 billion at end of 2002 to HK\$7,889 billion at end of 2007, representing a growth of 227%. The three major groups of economic activities persistently ranked at the top for inward and outward FDI over the past few years, in terms of both the total stock and flow are all services industries, namely: investment holding, real estate and various business services; banks and deposit-taking companies; and wholesale, retail and import/export trades.

254. Again, unfortunately official statistics on the bilateral investment flows between Hong Kong, China and Chile or between Hong Kong, China and South America for assessing

the likely impact of a possible Hong Kong, China-Chile FTA on the bilateral trade in investment are not available. We are only able to conduct a qualitative assessment.

#### 5.4.2. Conclusions

255. Hong Kong, China attaches importance to promoting bilateral investment between Hong Kong, China and Chile and recognises the mutual benefits of a possible Hong Kong, China-Chile FTA to our investors and their investments in both economies. A possible bilateral FTA would foster closer co-operation on investment matters between the two economies. It is conducive to increasing existing investments and creating new investment opportunities for Hong Kong, China and Chilean investors.

256. Existing Hong Kong, China-Chile investment flows are modest relative to bilateral trade. This may reflect the lack of awareness of business opportunities in each other's economy by our investors. A possible FTA would improve the transparency and predictability of the other economy's investment regime. Besides, an FTA will be instrumental in enhancing investors' understanding of foreign investment regimes and streamlining investment regulations and application processes. At the same time, investment cost will be reduced significantly because of tariffs reduction and/or elimination in various inputs, e.g. equipments and natural resources. All these improvements would significantly heighten the incentives for investors of both sides to explore investment opportunities in the other economy.

257. It is expected that a possible FTA may generate greater bilateral flows of capital between the two economies towards sectors that would be fostered by trade expansion. There would be significant strategic benefits that investors of both sides could derive from a possible FTA as both economies could serve as gateway to enter the markets of their respective regions. Hong Kong, China is a natural gateway for Chilean businesses to enter the markets in the Mainland and South East Asian region, while Chile offers many advantages as a base for Hong Kong, China businesses aiming at the South American markets.

## **6. COOPERATION AND INFORMATION EXCHANGE ON OTHER ISSUES**

### **6.1. Science and Technology**

258. The HKSAR Government strives to enhance Hong Kong, China's competitiveness and to develop the city into an innovation and technology hub for the region. We aim at building on Hong Kong, China's strengths (i.e. emerging research and development (R&D) capability, excellent infrastructure, robust intellectual property protection regime and close proximity to the Mainland) to promote the development of innovation and technology.

259. Hong Kong, China has been implementing various initiatives to drive forward innovation and technology. It offers a comprehensive range of infrastructure and funding support, including:

- (a) the HK\$5 billion (US\$640 million) Innovation and Technology Fund to support projects that will help upgrade the level of technology and promote innovation in the manufacturing and service industries;
- (b) Applied Science and Technology Research Institute (ASTRI), with research focus on information and communication technologies, performs high quality R&D for transfer to industry for commercialization;
- (c) the Hong Kong Science and Technology Parks Corporation provides the industry with comprehensive infrastructural support services including -
  - incubation programmes for technology and design start-ups,
  - premises and services for applied R&D activities through the Science Park<sup>82</sup>, and
  - provision of land/premises for production through industrial estates;
- (d) the Hong Kong Productivity Council promotes productivity excellence among Hong Kong, China companies across the value chain, supports Hong Kong, China manufacturers with operations in Hong Kong, China and in the Pearl River Delta (PRD) Region;
- (e) five R&D Centres to support applied R&D in the following five technology focus areas:
  - automotive parts and accessory systems;
  - information and communications technologies;
  - logistics and supply chain management enabling technologies;
  - nanotechnology and advanced materials; and
  - textiles and clothing.

260. The Innovation and Technology Commission (ITC) has been actively promoting technology collaborations with overseas regions and research institutions, with a view to

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<sup>82</sup> The Science Park provides an effective R&D environment and support services to facilitate collaboration and synergy among its tenants under four clusters - electronics, information technology and telecommunications, biotechnology and precision engineering.

promoting technology exchange and transfer of knowledge to our industry for technology upgrading in Hong Kong, China and the PRD Region. ITC has signed Memoranda of Understanding (MoU) with world-renowned universities and research institutions including the University of California (Berkeley and Los Angeles), University College of London and National ICT Australia which have agreed to be research partners of the R&D Centres.

## **6.2. Small and Medium Enterprises, Education, Tourism**

### **6.2.1. Small and Medium Enterprises (SMEs)**

261. SMEs<sup>83</sup> are the backbone of Hong Kong, China economy. They (more than 266,000 as at December 2008) constitute over 98% of the local business establishments and provide about 49% (1.2 million) of the total employment in the private sector.

262. We believe that a free and open market with minimum government intervention is best suited for business development and resources allocation in the economy. The HKSAR Government is committed to creating and maintaining a conducive and business-friendly environment for SMEs.

263. Our policy on SMEs is to provide necessary support to enhance their competitiveness through various departments and quasi-government bodies (such as Hong Kong Trade Development Council and Hong Kong Productivity Council). Examples of services include funding schemes for SMEs, providing latest market information and business advisory services, and providing infrastructure, design and technical support, while keeping in line with our cherished free market economic philosophy (“big market, small government” and “maximum support, minimum intervention”).

#### **(A) SME FUNDING SCHEMES**

264. The HKSAR Government has set aside HK\$2.7 billion (US\$346 million) for three SME Funding Schemes (involving a total government commitment of HK\$14.35 billion (US\$1.8 billion)) with a view to helping SMEs secure loans, expand overseas markets and enhance their overall competitiveness.

- (a) SME Loan Guarantee Scheme (SGS): This is a loan scheme whereby the Government acts as the guarantor for individual SMEs to facilitate them in securing loans from participating lending institutions. The loans can be used for acquiring business installations and equipment or meeting working capital needs. The amount of the guarantee for each SME is 50% of the approved loan, subject to a maximum amount of HK\$6 million (US\$0.8 million) (i.e. the maximum amount of loan that each SME may obtain is HK\$12 million (US\$1.5 million)).

Enhanced measures to the SGS were implemented in November 2008. The guarantee can be used to secure loans for either business installations and equipment or working capital, or a combination of both. The guarantee

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<sup>83</sup> “SMEs” is defined as any manufacturing businesses which employ fewer than 100 persons in Hong Kong, China; or any non-manufacturing businesses which employ fewer than 50 persons in Hong Kong, China. In this connection, “business” refers to any form of trade, commerce, craftsmanship, professional, calling or other activity carried on for the purpose of gain, but shall not include any club except a club within the meaning of the Business Registration Ordinance which provides services for the purpose of gain.

period is up to 5 years. Each SME is also allowed to recycle the guarantee once after it had fully paid up the loan backed up by the guarantee. In other words, each SME would be able to obtain a maximum amount of guarantee of HK\$12 million (US\$1.5 million) in its lifetime.

- (b) SME Export Marketing Fund (EMF): it aims at helping SMEs expand their business through participation in export promotion activities like exhibition, trade fairs, trade mission, and advertisement in publications targeting export market or websites of exhibition organisers. The maximum amount of grant for each application is 50% of the total approved expenditure, subject to a ceiling of HK\$50,000 (US\$6,410). The maximum cumulative amount of grant an SME may obtain is HK\$150,000 (US\$19,230).
- (c) SME Development Fund (SDF): it provides financial support to non-profit-distributing organisations, such as trade and industrial organisations, professional bodies and research institutions, to implement projects which aim at enhancing the competitiveness of SMEs in general or in specific sectors. The maximum amount of grant for each approved project is 90% of the total project expenditure, subject to a ceiling of HK\$2 million (US\$0.26 million).

As at 30 April 2009, around 162,200 applications have been approved under the SME funding schemes, involving about HK\$13.4 billion (US\$1.7 billion) of government guarantee or grant. Over 59,600 SMEs have been benefited from the schemes.

#### **(B) SPECIAL LOAN GUARANTEE SCHEME (SPGS)**

265. The SpGS was implemented on 15 December 2008 to help enterprises secure loans from participating lending institutions (PLIs) to tide over the liquidity problem during the current global financial crisis. Enterprises with substantive business in Hong Kong, China and registered in Hong Kong, China under the Business Registration Ordinance (except listed companies) can apply. The loans shall be used for meeting the needs of general business use of the applicants.

266. The amount of Government guarantee for an enterprise is 80% of the approved loan, subject to a maximum loan amount of HK\$12 million (US\$1.5 million). Within this limit, an enterprise may obtain from the PLIs a revolving credit line of up to HK\$6 million (US\$0.8 million). The maximum guarantee period for each loan is 60 months or up to 31 December 2014, whichever is the earlier.

267. As at 8 May 2009, 8,202 loan applications were submitted to the Trade and Industry Department, of which 7,511 had been approved, involving a total loan amount of about HK\$14.1 billion (US\$1.8 billion).

#### **(C) BUSINESS AND INFORMATION SERVICES**

268. The Support and Consultation Centre for SMEs (SUCCESS) provides SMEs with free, reliable and practical information and consultation services. On information service, SUCCESS offers a convenient first-stop service by collating a comprehensive range of business information, including government licensing and certification requirements, which is easily accessible through the SUCCESS Website ([www.success.tid.gov.hk](http://www.success.tid.gov.hk)). SUCCESS also keeps SMEs abreast of the latest business information through biweekly e-newsletters and a half-yearly publication "SME Pulse". On consultation service, SUCCESS operates a Business Advisory Service (which provides professional and expert advice to SMEs through

face-to-face interviews on a wide array of 24 business specialty areas) and an SME Mentorship Programme (which provides an opportunity for SME businessmen to learn from and be guided by accomplished entrepreneurs, through one-on-one free counselling within a full-year mentorship period). SUCCESS also organises seminars, workshops and other business activities to help broaden SMEs' business knowledge and sharpen their entrepreneurial skills as well as competitive edge.

### 6.2.2. Education

269. The Secretary for Education, who heads the Education Bureau of the HKSAR Government, formulates, develops and reviews educational policies, secures funds from the government budget, and oversees the implementation of educational programmes with the assistance of the Permanent Secretary for Education.

270. Hong Kong, China is well positioned to provide quality higher education in the region because of its cosmopolitan outlook, strong links with the Mainland, world-class universities and diversified system of education. It is Hong Kong, China's stated intention to become a regional education hub. We have introduced a basket of measures to attract quality non-local students to study in Hong Kong, China. These measures include increasing non-local student quotas for local institutions, relaxing employment and immigration restrictions for non-local students, and establishing a HK\$1 billion endowment fund to provide government scholarships to outstanding local and non-local students. This process will further internationalise the city's higher education sector.

271. Hong Kong, China has 12 degree-awarding higher education institutions, eight of which are funded by the public through the University Grants Committee<sup>84</sup>. The other four are the publicly-funded Hong Kong Academy for Performing Arts and the self-financing Open University of Hong Kong, Hong Kong Shue Yan University and Chu Hai College of Higher Education.

272. They enjoy a high degree of academic and institutional autonomy, and are free to manage their own affairs, including matters relating to collaboration with their overseas counterparts, within the parameters of the law.

### 6.2.3. Tourism

273. Hong Kong, China received over 29.5 million visitors in 2008. With a worldwide network of 15 offices and six representatives, the Hong Kong Tourism Board (HKTb) promotes Hong Kong, China as a preferred travel destination worldwide.

274. Hong Kong, China seeks to diversify our destination offerings to cater for different visitor segments and enrich their visit experience. In the next few years, we will focus on the following areas -

- (a) Cruise tourism - to position Hong Kong, China as a regional cruise hub by developing a world-class cruise terminal. The first berth is expected to commence operation in mid 2013;
- (b) Meeting, Incentive Travel, Convention and Exhibition (MICE) tourism - in the

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<sup>84</sup> The University Grants Committee is a non-statutory advisory body which advises the Government on the development and funding of higher education and administers public grants to the eight higher education institutions.

2008-09 Budget, the HKSAR Government has earmarked HK\$150 million over five years to promote MICE tourism. The HKTB established the “Meetings and Exhibitions Hong Kong” (MEHK) office in November 2008 to strengthen overseas promotion of Hong Kong, China as a premier MICE destination and to provide one-stop support to MICE organisers;

- (c) Mega events - the HKSAR Government earmarked a HK\$100 million “Mega Events Fund” in the 2009-10 Budget. The fund will be used to directly support mega events hosted by non-profit organisations. This Fund aims at primarily attracting more new international mega events to be staged in Hong Kong, China. Existing events which can be developed into events of an international scale may also be considered;
- (d) Green tourism - the HKTB promotes green tourism through its “Hong Kong Nature Kaleidoscope” programmes and will stage a brand new “Hong Kong Hiking Festival” in October 2009; and
- (e) Cultural tourism - in order to diversify our tourism products and enrich visitors’ travel experience, the HKTB has been actively promoting Hong Kong, China’s heritage, and collaborating with the travel trade to include heritage attractions and revitalised heritage buildings such as the Former Marine Police Headquarters in Tsim Sha Tsui in the tour itineraries. The Government and the HKTB also collaborate closely with local performing arts groups and the tourism sector to promote Hong Kong, China’s arts and cultural performances to our visitors.

275. Travel agents in Hong Kong, China are licensed and regulated under the Travel Agents Ordinance. At present there are about 1,480 travel agents. Granting of a licence is subject to the following pre-requisites –

- (a) the applicant and any person in control of the company or responsible for its management must be, in the opinion of the Registrar of Travel Agents, a fit and proper person to carry on or be associated with the business of a travel agent;
- (b) the premises where the applicant proposes to carry on its business as travel agent must be suitable for the purpose; and
- (c) the applicant must be a member of an “approved organization” which, as specified in the Travel Agents Ordinance, is the Travel Industry Council of Hong Kong (TIC).

276. The TIC is entrusted with the responsibility to regulate outbound and inbound travel agents by setting and enforcing codes of conduct to ensure proper practices. Travel agents who have breached the rules are subject to disciplinary action.

277. To ensure quality service to tour groups, the TIC mandates travel agents to employ tourist guides who have received the specified training, passed a prescribed examination and obtained a Tourist Guide Pass issued by it.

## 6.3. Other Areas of Cooperation

### 6.3.1. Gender

278. The HKSAR Government is committed to the advancement and development of women. The Government set up the Women's Commission (WoC) in January 2001 to provide strategic advices on women's issues and to champion for women's interests.

279. The HKSAR Government has been working together with the WoC to promote the well-being and interests of women through its three-pronged strategy, viz. the provision of an enabling environment, empowerment of women and public education. The HKSAR Government has also collaborated closely with local women's groups and non-governmental organizations in taking forward its initiatives.

280. **To provide an enabling environment**, the HKSAR Government has been implementing gender mainstreaming in various policy and programme areas, so as to enable both sexes to have equal access to and benefit from society's resources and opportunities. At the same time, the HKSAR Government also supports the WoC in reviewing key services for women and promoting the adoption of family-friendly employment policies and practices in Hong Kong, China.

281. **In empowering women**, active measures have been taken to increase the participation of women in the HKSAR Government advisory and statutory bodies, so as to engage women in the decision-making process. Furthermore, the WoC has, among others, launched the Capacity Building Mileage Programme in March 2004 to encourage women of different background and educational levels to pursue continuous learning and self-development.

282. **On public education**, the HKSAR Government has been working closely with the WoC in organising various public education programmes seeking to reduce gender prejudice and stereotype in society. The Government also attaches importance to the promotion of gender awareness in school education to reduce gender stereotyping of students in their early stages of life.

283. Both sides may further explore the possibility of cooperation on other matters not mentioned in this report.

## **7. CONCLUSIONS**

### **7.1. Why Chile**

284. Chile has enjoyed a high and sustained economic growth over the last two decades and has maintained an average annual GDP growth of 5% between 1990 and 2007. Being a free and open economy in South America, Chile offers not only a stable and predictable trade environment; it also offers good business prospects for foreign traders and investors, including traders and investors from Hong Kong, China.

285. Apart from the Chilean domestic market, Chile offers many advantages as a base for Hong Kong, China businesses aiming at the South American market, due to the geographical proximity to as well as the strong connections with its neighbouring countries. Many foreign companies, including many Hong Kong, China companies, use Chile as a storage and distribution hub for re-exports to Peru, Bolivia, Ecuador, Colombia and Venezuela.

286. Indeed, Hong Kong, China and Chile have long maintained good bilateral trade relations. Bilateral trade in goods between the two economies was growing at an annual average rate of 5% during 2003 to 2008 from HK\$3,485 million in 2003 to HK\$4,622 million in 2008. With bilateral trade between the two places growing steadily, there is certainly good potential for further enhancement of this economic and trade relationship.

### **7.2. Strategic Framework**

287. As a small, open and externally-oriented economy, Hong Kong, China has all along been relying on the rules based multilateral trading system embodied in the WTO as the cornerstone of our economic and trade policy. We consider that global trade liberalisation can provide the engine for sustained economic growth worldwide. Hong Kong, China strongly supports the multilateral trade negotiations under the Doha Development Round (DDA) and believes that the successful conclusion of DDA will benefit the entire WTO membership. Hong Kong, China will continue to work with all WTO Members towards an early and fruitful conclusion of the DDA.

288. On the other hand, Hong Kong, China recognises that high standard FTAs with a meaningful framework for liberalisation could help complement and spur global trade liberalization. We consider that high-standard FTAs that are consistent with WTO rules should bring about more and improved market opportunities and create a more favourable business environment among FTA parties, as well as contribute to global trade liberalisation. Since 2000, we have been adopting a more open-minded approach in pursuing high-standard FTAs with our trading partners, while upholding our commitments to the primacy of the multilateral trading system.

289. So far, we have concluded a Closer Economic Partnership Arrangement with the Mainland and have been discussing a Closer Economic Partnership Agreement with New Zealand. We will continue to explore the possibility of concluding more FTAs with our trading partners.

## **7.3. Effects of a Hong Kong, China/Chile Free Trade Agreement**

### **7.3.1. General Effects**

290. A bilateral FTA between Hong Kong, China and Chile will be instrumental in fostering closer economic ties between the two sides. It will also further strengthen Hong Kong, China's linkage with the South American market and offer a wealth of opportunities for exporters of both sides to expand existing exports, to explore new services markets, and to improve the environment for bilateral investment and business mobility.

291. For trade in goods, the average tariff rate of Chile is 6%. Hong Kong, China's exporters will be able to enjoy tariff savings, if all of our domestic exports to Chile are granted preferential tariff rate at zero under the possible Hong Kong, China-Chile FTA. Under a preferential zero tariff rate, it is estimated that as far as goods which are currently traded between Chile and Hong Kong, China are concerned, imports to Chile from Hong Kong, China will increase by about 14% or US\$4.5 million. Consumers or producers in Chile will in turn benefit from cost reduction by importing products of Hong Kong, China.

292. Hong Kong, China has been practising free trade and zero tariff regime. That said, Hong Kong, China has not yet bound all the tariffs at zero under the WTO. In fact, only about 45% of our tariff lines are currently bound at zero in the WTO context. Depending on the negotiation of the FTA with Chile, Hong Kong, China may explore the possibility of increasing the binding rate of our tariffs. If so, it would increase the certainty for Chilean traders and provide them with further incentives for doing business in Hong Kong, China.

293. On trade in services, while both Hong Kong, China and Chile do not maintain substantive restrictions on services trade, there is still room for making WTO-plus commitments under a Hong Kong, China-Chile FTA taking into account interests of the respective economies. It will help bring about increase in services trade between the two places. The legally binding services commitments to be undertaken by both sides in the possible FTA would also enhance the certainty and predictability of the operating environment for services traders from both economies. This will not only increase the interests of serving services suppliers in further developing the existing services markets in the other party, but will also create incentives for potential services traders to explore the new market potential in services sectors of the other party.

294. With a possible FTA between the two economies, both sides may enhance cooperation on various areas, for examples, intellectual property protection and trade facilitation, which would be beneficial to the growth of bilateral trade. The above positive incentives to bilateral trade will not only help reduce transaction costs of existing trade, and thus stimulate growth of trade in goods currently transacted between Hong Kong, China and Chile, but will also result in trade creation effect. It is expected that trade of currently non-traded goods may be created with the conclusion of an FTA between Hong Kong, China and Chile, which in turn bring expanded business opportunities to traders of both Hong Kong, China and Chile.

### **7.3.2. Effects on Trade and Investment by main economic sectors**

295. For trade in goods, Hong Kong, China's major domestic exports to Chile include telecommunications and sound recording and reproducing apparatus and equipment; office machines and automatic data processing machines; and articles of apparel and clothing

accessories. Domestic exports of these products will likely benefit from a possible bilateral FTA between Hong Kong, China and Chile.

296. For trade in services, our exports in financial, merchanting, and other business and personal services to Central and South America are on the rise in recent years. It is envisaged that bilateral trade between Hong Kong, China and Chile in these specific services areas would benefit from a bilateral FTA between the two places.

297. A possible Hong Kong, China-Chile FTA should be conducive to increasing existing investments and creating new investment opportunities for both economies, hence bringing mutual benefits to investors of both places.

298. Closer co-operation and collaboration between Hong Kong, China and Chile on areas of mutual interest would also be fostered arising from a possible bilateral FTA.

## **8. RECOMMENDATIONS (JOINT CHAPTER)**

### **Common Conclusions and Recommendations of the Joint Study Group on the Feasibility of a Free Trade Agreement between Chile and Hong Kong, China**

**Hong Kong, China, July 15, 2009**

1. In the framework of the bilateral relations, authorities of the Republic of Chile headed by Ambassador Carlos Furche, Vice Minister for International Economic Affairs and of Hong Kong, China (HKC) headed by Mrs. Rita Lau, Secretary for Commerce and Economic Development agreed on the need to intensify the Chile-HKC trade and economic relationship by commencing together a feasibility study to examine a potential Chile-HKC Free Trade Agreement (FTA). A Joint Feasibility Study Group was formed by the two economies on November 24, 2008.
2. Both economies have conducted three meetings of the Joint Study Group alternately in Santiago and Hong Kong, reaching a successful conclusion of the work.
3. The Joint Study's main conclusions on the feasibility of an FTA indicate that enhancement of the trade and economic relationships between Chile and HKC would have a positive impact on the economic relationship between the two partners:
  - Chile and HKC would, as a result of tariff elimination or reduction by Chile and of the binding of the tariff lines that HKC has not bound in the WTO, benefit because of the trade increase between the two economies.
  - An agreement with disciplines that provide legal certainty would improve the investment environment and would have a positive impact in the export of services including those associated to the increase of trade in goods.
  - An agreement between both partners would induce a reduction in the transaction costs between them, due to the inclusion of trade facilitation measures.
  - Both Chile and HKC, are members of APEC and World Trade Organisation and work together to liberalize trade in the Asia Pacific Rim and multilaterally. They have a strong network of economic relations in their respective regions. Chile has commercial and economic agreements with

all Latin American countries, with the US and Canada. HKC has a Closer Economic Partnership Arrangement with the People's Republic of China, and is a major trade partner with most economies in East Asia.

4. HKC and Chile are open on the form and content of the trade agreement, such as FTA-type of agreement, as well as the structure of negotiation.
5. Both delegations agree to advise their respective Governments on the promising results obtained in the "Chile-Hong Kong, China Joint Study Group on the Feasibility of a Free Trade Agreement", so that appropriate decisions concerning future negotiations between Chile and HKC can be taken.



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## **APPENDIX**



## APPENDIX I HONG KONG, CHINA'S ANSWERS TO CHILE'S QUESTIONS

### Chapter I

#### *1.1.A Macroeconomic Features*

1. On page 6 of the Hong Kong, China report, it is mentioned that "...at the fixed exchange rate of HK\$ 7.80 to US\$ 1". We would like to know more about the fixed exchange rate policy, and how does it impact the HK\$ quotation and the real exchange rates with other currencies, say ¥ and €, yuan? Have you taken any measures to use the yuan instead of the HK\$ for the border trade with Mainland China?

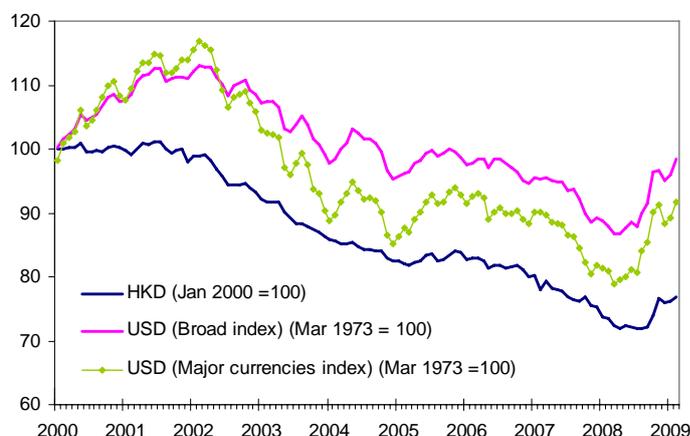
Under the current monetary arrangements, the spot exchange rate of the Hong Kong dollar against the US dollar in the foreign exchange market is allowed to fluctuate within a very narrow range of HK\$7.75–7.85 per US\$1. The arrangement effectively fixes the Hong Kong dollar exchange rate against the US dollar at around HK\$7.8 per US dollar, which is consistent with our monetary objective of maintaining the stability of the external value of the Hong Kong dollar.

The currency stability of the Hong Kong dollar is maintained through an automatic interest rate adjustment mechanism as well as the firm commitment to honour the Convertibility Undertakings (CU) by the Hong Kong Monetary Authority (HKMA). Specifically, when there is a decrease in demand for Hong Kong dollar assets and the Hong Kong dollar market exchange rate weakens to the weak-side CU of HK\$7.85 to US\$1, the HKMA stands ready to purchase Hong Kong dollars from the market, leading to a contraction in the Monetary Base. Interest rates will then rise, creating monetary conditions conducive to capital inflows to restore exchange rate stability. Conversely, if there is an increase in the demand for Hong Kong dollar assets, leading to a strengthening of the market exchange rate to the strong-side CU of HK\$7.75 to US\$1, the HKMA will sell Hong Kong dollars to banks. The Monetary Base will correspondingly expand, exerting downward pressure on interest rates, and so discouraging continued inflows.

Under the fixed exchange rate regime, movements in the bilateral exchange rates of the Hong Kong dollar against other currencies closely follow those in the bilateral exchange rates of the US dollar. For example, if the US dollar appreciates against the Japanese yen, the Hong Kong dollar will follow the US dollar to strengthen against the yen. As a result, the real exchange rate of the Hong Kong dollar against the yen will also strengthen, holding other factors (changes in the price levels) constant. It should be noted that the real effective exchange rate indices

of the Hong Kong dollar and the US dollar do not necessarily move together due to different structures of trading partners (see Chart 1).

**Chart 1: Trade-weighted real effective exchange rate indices**



Sources: HKMA and US Federal Reserve

On 8 April 2009, the Mainland authorities announced to introduce a pilot programme for using Renminbi for cross-border trade settlements in Shanghai and four cities in the Guangdong Province. Hong Kong has completed the necessary technical preparations for becoming the first place outside the Mainland to support Renminbi-denominated trade settlements. The relevant business will commence once the Mainland authorities concerned have promulgated the operational arrangements.

### ***1.1.B Structure of Trade Policy Formulation***

2. It is also mentioned on page 8 of the Hong Kong, China report that "... it may issue its own certificates of origin...". Is Hong Kong, China currently issuing certificates of origin?

Yes. The Trade and Industry Department (TID) of the Hong Kong Special Administrative Region (HKSAR) Government currently administers a certification of origin system to certify the origin of goods from Hong Kong to meet the requirements (including those pertaining to preferential tariffs) on Certificates of Origin (COs) of the importing authorities of our trading partners. Products are eligible for COs only if all the required principal processes relevant to the products concerned are carried out in Hong Kong. The origin rules for issue of COs are established in conformity with internationally accepted practices and standards.

Under the origin certification system, COs are issued by TID and five designated Government Approved Certification Organizations (GACOs),

namely Hong Kong General Chamber of Commerce; Federation of Hong Kong Industries; the Chinese Manufacturers' Association of Hong Kong; the Indian Chamber of Commerce, Hong Kong; and the Chinese General Chamber of Commerce. These COs are all legally protected by the Laws of Hong Kong and equally accepted by overseas customs authorities.

The COs issued include:

(a) Certificates of Hong Kong Origin (CHKO);

(b) Certificates of Hong Kong Origin – CEPA (CO(CEPA)s) which cover products being exported into the Mainland of China to enable our exporters to enjoy zero tariff treatment under the "Mainland and Hong Kong Closer Economic Partnership Arrangement" (CEPA);

(c) Certificates of Origin – Processing (COP); and

(d) Certificates of Origin Form A (Form A).

3. Understanding that Hong Kong, China is entitled to negotiate trade agreements, we would like to know if there are any subjects that are not included under the concept of trade.

Under the Basic Law, the HKSAR is a separate customs territory. The Basic Law stipulates that the HKSAR may on its own, using the name "Hong Kong, China", maintain and develop relations and conclude and implement agreements with foreign states and regions and relevant international organisations in the appropriate fields, including the economic, trade, financial and monetary, shipping, communications, tourism, cultural and sports fields.

It is not possible to provide an exhaustive list of which subjects can be covered by a free trade agreement and which subjects cannot, as this is subject to the outcome of negotiation between the parties involved. So far, Hong Kong, China has concluded a Closer Economic Partnership Agreement (CEPA) with the mainland of China. CEPA covers trade in goods, trade in services, and trade and investment facilitation.

### ***1.1.D Trade Laws and Regulations***

4. On page 10 of the Hong Kong, China report, it is mentioned that “the cornerstone of .....commercial policy is the rules-based multilateral trading system under the WTO.” Could you elaborate on the consequences for the Hong Kong, China trade policy?

Free trade is particularly important to Hong Kong: it is, in fact, our lifeblood. Hong Kong is one of the most open economies in the world

and a staunch supporter of the rules-based multilateral trading system under the WTO. Free and open trade has brought huge benefits to Hong Kong in the past few decades, and it will continue to serve Hong Kong well in the years to come. Hong Kong is currently the world's thirteenth largest trading entity in merchandise trade and the sixteenth largest trading entity in commercial services trade. It operates one of the world's busiest container ports in terms of number of throughput, as well as one of the world's busiest airports in terms of number of international passengers and air cargo handled. Hong Kong is also one of the world's leading financial centres. Despite the global financial turmoil, Hong Kong's stock market remains the seventh largest in the world and the third largest in Asia by market capitalisation.

5. Could Hong Kong, China please provide the text of the Banking Ordinance referred in page 11, and of the Securities and Futures Ordinance and the Insurance Companies Ordinance referred in page 12?

The texts of the relevant ordinances are available at the following links on the Internet.

Insurance Companies Ordinance (Cap. 41) :  
[http://www.legislation.gov.hk/blis\\_ind.nsf/CurAllEngDoc?OpenView&Start=41&Count=10&Expand=41#41](http://www.legislation.gov.hk/blis_ind.nsf/CurAllEngDoc?OpenView&Start=41&Count=10&Expand=41#41);

Banking Ordinance (Cap. 155) :  
[http://www.legislation.gov.hk/blis\\_ind.nsf/CurAllEngDoc?OpenView&Start=155&Count=18&Expand=155#155](http://www.legislation.gov.hk/blis_ind.nsf/CurAllEngDoc?OpenView&Start=155&Count=18&Expand=155#155); and

Securities And Futures Ordinance (Cap. 571) :  
[http://www.legislation.gov.hk/blis\\_ind.nsf/CurAllEngDoc?OpenView&Start=568&Count=37&Expand=568#568](http://www.legislation.gov.hk/blis_ind.nsf/CurAllEngDoc?OpenView&Start=568&Count=37&Expand=568#568).

## ***1.2 Trade in Goods***

6. Page 13 of the Hong Kong report says that “ Re-exports remained the key driver in overall trade with the vibrant trade flows of the mainland of China”. How have these re-exports been impacted by the current financial and international crisis?

Re-exports feature prominently in Hong Kong's trade in goods, comprising 96.8% of our total exports of goods. Most of these re-exports are closely tied to the regional trade flows which involve industrial activities in Asia, particularly the Pearl River Delta region, producing manufactured products for the advanced economies. When the advanced economies slipped into recession over the course of 2008, especially after the intensification of the global financial crisis in September, Hong Kong's re-exports likewise decelerated alongside the

deceleration in world trade. Since the latter part of 2008, Hong Kong's re-exports began to decline on a year-on-year basis. For 2008 as a whole, re-exports still recorded a moderate growth of 6% in value terms. However, the rate of decline in re-exports widened markedly to 21.1% year-on-year in the first quarter of 2009. This sharp decline was nevertheless partly a region-wide phenomenon. Indeed, many other Asian economies saw even steeper declines in their trade flows over the same period.

### ***1.3 Trade in Services***

7. Please elaborate on the priority of the Hong Kong, China government as far as the services industry is concerned in respect of trade.

The HKSAR Government has always been striving to foster the city's position as an international financial, trading and services centre in the region. In the 2009-10 Budget, the Financial Secretary reiterated the government's policy to enhance the four pillar industries in Hong Kong, namely financial services, trading and logistics, tourism, and business support and professional services. It is also stressed that measures are in place for reinforcing Hong Kong's status as a regional hub for wine distribution and trading. Meanwhile, there have also been calls for the government to promote diversification of the economy. The government recognises that it is vital to encourage high value-added economic activities that are conducive to sustainable economic development. Hence in the 2009-10 Budget, the Financial Secretary outlined the way forward in promoting technology-based, creative and green economies. Moreover, the continued growth and development of the China economy will provide ample opportunities for further trade expansion.

### ***1.5 Introduction of FTAs negotiated by each party***

8. Regarding the Hong Kong / NZ Closer Economic Partnership Agreement (HK / NZ CEP), could Hong Kong, China please provide more detailed information about the coverage intended in the negotiation of services and investment within the HK / NZ CEP (please refer to page 20, (d) liberalization and promotion of bilateral investment; and (e) liberalization of trade in services)

New Zealand (NZ) is one of the important trading partners of Hong Kong in the Asia Pacific region. Smoother economic cooperation and freer flow of goods and services as well as investment arising from a Hong Kong, China (HKC)/NZ CEP will help generate more and improved market opportunities in both HK and NZ markets.

Regarding the coverage of services and investment negotiations under the HKC/NZ CEP, given that the negotiations are on-going and evolving,

we are not able to provide concrete details at this stage. Generally speaking, since Hong Kong's services sectors contributing over 90% of our Gross Domestic Products, we would look for services commitments which will help enhance potential of growth in services trade between the two economies. On investment, we would look for outcome which will help promote investment flow between the two economies.

9. Could Hong Kong, China please provide a hard copy of the trade in services, investment and movement of natural persons provisions of the Closer Economic Partnership Arrangement (CEPA) signed with the mainland of China, and of its annexes and its supplements referred to the same matters, referred in page 20?

For the detailed provisions pertaining to trade in services, and trade and investment facilitation, please refer to Chapters 4 and 5 respectively of the main text of CEPA signed on 29 June 2003. Similar provisions can also be found in the subsequent Supplements to CEPA. Electronic copy of the relevant legal text of CEPA and its Supplements can be downloaded from the designated website of the TID at [http://www.tid.gov.hk/english/cepa/legaltext/cepa\\_legaltext.html](http://www.tid.gov.hk/english/cepa/legaltext/cepa_legaltext.html).

10. Could Hong Kong, China please provide further information about CEPA's regulations on mutual recognition of professional qualifications and exchange of professional talents, referred in page 20?

Pursuant to Article 15 of the main text of CEPA signed on 29 June 2003, the mainland of China and HKC have committed to encouraging mutual recognition of professional qualifications and promoting the exchange of professional talents between each other. So far, both sides have reached agreements or arrangements on mutual recognition of various professional qualifications in accounting, construction, securities and futures sectors. Details can also be found at the designated website of TID at <http://www.tid.gov.hk/english/cepa/mutual/mutual.html>.

### ***2.3 Bilateral Investments***

11. Page 27 of the Hong Kong, China report mentions the bilateral investments. Do you have more information concerning Hong Kong, China investments in South America and in Chile?

Unfortunately, official statistics on Hong Kong's investment in both South America and in Chile are not available.

### ***3.2.5 Technical Barriers to Trade***

12. Does Hong Kong, China have a mechanism of coordination with the different Government Agencies related to TBT issues like a National Commission on TBT?

The TID is responsible for HKC's participation in the WTO and therefore oversees the general implementation of various WTO Agreements, including the TBT Agreement. As regards coordination with various government bureaux/departments to submit notifications under the WTO TBT Agreement, the Innovation and Technology Commission (ITC) serves as the notification and enquiry point of HKC as required under Article 10 of the TBT Agreement.

13. Does Hong Kong, China have some kind of mechanism of coordination with the industry related to TBT issues?

Individual government bureaux/departments are responsible for introducing and maintaining technical regulations, standards or conformity assessment procedures in their respective regulatory areas. Consultation with the local trade, stakeholders and the general public, where appropriate, will be conducted by individual bureaux/departments, before adoption or amendment of technical regulations, standards or conformity assessment procedures.

14. Has Hong Kong, China carried out some training courses or capacity building activities to the industry and/or to Government Agencies related to TBT issues?

Talks and seminars would be organized by individual bureaux/departments, as appropriate, to promote the awareness of the industry and the public related to TBT issues.

15. How is the experience of Hong Kong, China regarding to MRAs? Are the MRAs costly to implement them? How does Hong Kong, China implement the “non-compliance”?

The Hong Kong Accreditation Service of the Innovation and Technology Commission has concluded mutual recognition arrangements (MRAs) with accreditation bodies in other economies as described in page 39 of HKC's JFS report. Considering the benefits that these MRAs with accreditation bodies may bring about, we do not consider them costly to implement. In these MRAs with accreditation bodies, non-compliance will be dealt with in accordance with the terms of the MRAs.

In addition, HKC has joined the APEC MRA on Conformity Assessment of Food and Food Products, APEC Arrangement for the Exchange of Information on Food Recalls, Information Exchange Arrangement for Toy Safety, APEC MRA on Telecommunications Equipment and APEC Electrical and Electronic MRA.

16. How is the process of notification and analysis of received comments regarding to technical regulations are established under Laws and, for this reason, with the direct participation of the Congress?

Although there is no specific legislation governing the process of notification and the analysis of received comments regarding technical regulations in Hong Kong, all relevant government bureaux/departments follow the notification requirements of the WTO TBT Agreement, and consult the local trade, stakeholders and consumers prior to the introduction or amendment of technical regulations.

The Legislative Council is the legislature of the HKSAR and is responsible for enacting, amending and repealing laws, including legislative amendments of technical regulations.

17. Is there any web site where you can find all information about technical regulation and conformity assessment procedures?

An overview of the regulations, standards and conformity assessment mechanisms used in various regulatory areas in Hong Kong is contained in the website of the ITC at <http://www.itc.gov.hk/en/quality/psis/srca/db.htm>.

### **3.3 Services**

#### **3.3.1 Measures Affecting Trade in Services**

18. Could Hong Kong, China please provide the text of the Telecommunications (Amendment) Ordinance 2003, as referred in page 45?

The Telecommunications (Amendment) Ordinance 2003 is available at

[http://www.gld.gov.hk/cgi-bin/gld/egazette/gazettefiles.cgi?lang=e&year=2003&month=7&day=18&vol=07&no=29&gn=30&header=1&part=0&df=1&nt=s1&newfile=1&acurrentpage=12&agree=1&gaz\\_type=ls1](http://www.gld.gov.hk/cgi-bin/gld/egazette/gazettefiles.cgi?lang=e&year=2003&month=7&day=18&vol=07&no=29&gn=30&header=1&part=0&df=1&nt=s1&newfile=1&acurrentpage=12&agree=1&gaz_type=ls1)

19. Could Hong Kong, China please provide the text of the Legal Practitioners Ordinance, as referred in page 46?

The Legal Practitioners Ordinance (Cap. 159) is available at [http://www.legislation.gov.hk/blis\\_ind.nsf/CurAllEngDoc?OpenView&Start=159&Count=38&Expand=159#159](http://www.legislation.gov.hk/blis_ind.nsf/CurAllEngDoc?OpenView&Start=159&Count=38&Expand=159#159)

### ***3.3.2 International Commitments Related to Services***

20. Could Hong Kong, China please specify the commitments that it has undertaken with mainland China in the CEPA that go beyond Hong Kong's services commitments under the GATS, as stated in page 47?

As specified in paragraph 5 of Annex 4 to CEPA signed on 29 June 2003, Hong Kong has undertaken not to impose any new discriminatory measures on the mainland of China's services and services suppliers in the areas for which the mainland of China has offered liberalisation measures to Hong Kong. This goes beyond Hong Kong's services commitments under the GATS. Information on areas for which the mainland of China has undertaken liberalisation measures under CEPA can be found at [http://www.tid.gov.hk/english/cepa/tradeservices/trade\\_services\\_requirement.html](http://www.tid.gov.hk/english/cepa/tradeservices/trade_services_requirement.html).

### ***3.4 Foreign Investment Regimes***

21. If applicable, could Hong Kong, China please provide a hard copy of the foreign investor manual or catalog edited by Invest Hong Kong or an analogue institution, if such an instrument exists?

A set of publications will be passed to Chile at the second meeting of the Joint Feasibility Group to be held on 18–19 May in Santiago, Chile.

22. Could Hong Kong, China please provide further information about the Innovation and Technology Fund and the DesignSmart Initiative, as referred in page 49?

A HK\$250 million "DesignSmart Initiative" was launched in June 2004 to strengthen Government's support for design and innovation, and to promote wider use of design and innovation in industries to help them move up the value chain. It comprises two components, namely a Design Support Programme (DSP) and the development of InnoCentre as a one-stop-shop for creating and sustaining a cluster of high value-added design activities.

The DSP comprises four funding schemes to provide resource support for projects in design and branding-related research, design and business collaboration, professional continuing education and promotion of a design culture. As at end April 2009, the Initiative has provided funding support of HK\$123 million for 242 projects, which cover conferences, seminars, exhibitions, design competitions, training courses, design research, designer-business collaboration projects.

For the InnoCentre, it aims to provide a one-stop shop as a focal point for support and services related to design. It includes a HK\$25-million

incubation programme for design start-ups; renting of office space for design companies; professional education and training; design-related exhibitions, seminars and workshops; design-related resources such as a design library; and events and activities for networking among design professionals and user industries. As at end April 2009, 44 design companies have been admitted as tenants, and 51 as incubatees.

23. If applicable, could Hong Kong, China please provide the list of the countries with which is currently negotiating a Bilateral Investment Treaty / Investment Promotion and Protection Agreement.?

HKC has been negotiating and concluding Investment Promotion and Protection Agreements (IPPAs) with other economies since 1991 to provide additional assurance to foreign investors, and to secure additional protection for Hong Kong companies and residents in respect of their investments overseas. At present, we have signed IPPAs with 15 economies. These include Australia, Austria, the Belgo-Luxembourg Economic Union, Denmark, France, Germany, Italy, Japan, the Republic of Korea, the Netherlands, New Zealand, Sweden, Switzerland, Thailand and the United Kingdom. HKC is also at different stages of negotiations with several economies that have close bilateral commercial and economic relationship with Hong Kong.

24. With respect to investment, are there any matters which Chile normally includes in its FTAs which Hong Kong, China could not include in a future FTA negotiation with Chile? If so, please indicate them as well as the reasons for its exclusion.

We attach importance to promoting bilateral investment between HKC and Chile and recognize the mutual benefits of a possible HKC/Chile FTA to our investors and their investments in both economies. While we have high degree of autonomy in negotiating and concluding FTA on our own using the name of “ Hong Kong, China” , the fact that Hong Kong is not a sovereign state needs to be recognized. In view of our non-sovereign status, the possible HKC/Chile FTA should not cover investment-related clauses which carry any sovereignty implications.

### **3.6 Government Procurement**

25. What is the size and structure of the GP market in Hong Kong, China?

Due to the unavailability of locally produced goods, most products purchased by central government entities are imported. In 2007, over 95% of the products purchased by the Government Logistics Department, the central procurement agency for goods and related services for the HKSAR government, were imported. The GP statistics of Hong Kong are tabulated below –

	Central government entities <sup>85</sup> (HK\$ million)	Other entities <sup>86</sup> (HK\$ million)	Total (HK\$ million)
<b>2003</b>			
Goods	7,448.36	690.86	8,139.22
Services (other than construction)	2,198.50	1,927.66	4,126.16
Construction services	28,228.89	5,013.60	33,242.49
Total	37,875.75	7,632.12	45,507.87
<b>2004</b>			
Goods	4,324.44	1,341.56	5,666.00
Services (other than construction)	2,807.94	1,891.45	4,699.39
Construction services	16,743.66	5,534.93	22,278.59
Total	23,876.04	8,767.94	32,643.98
<b>2005</b>			
Goods	3,603.04	1,556.00	5,159.04
Services (other than construction)	3,046.80	1,983.12	5,029.92
Construction services	9,975.77	8,217.51	18,193.28
Total	16,625.61	11,756.63	28,382.23
<b>2006</b>			
Goods	3,719.92	3,249.57	6,969.49
Services (other than construction)	4,393.68	2,478.37	6,872.05
Construction services	9,263.44	5,014.08	14,277.52
Total	17,377.04	10,742.02	28,119.06
<b>2007</b>			
Goods	3,584.05	3,811.35	7,395.40
Services (other than construction)	3,901.64	1,746.36	5,648.00
Construction services	24,942.40	5,048.24	29,990.64
Total	32,428.09	10,605.95	43,034.04

<sup>85</sup> Statistics for central government entities only include those for procurement of goods and services of a value exceeding HK\$0.5M and construction services exceeding HK\$1M.

<sup>86</sup> Statistics for other entities only include those for procurement with a value equal to or above the WTO GPA threshold value.

26. Does Hong Kong, China have special access to Mainland China's GP market?

No, Hong Kong has no special access to the mainland of China's GP market.

27. What is the Hong Kong, China evaluation of the GPA so far? Have they made use of it?

HKC's accession to the GPA has not caused changes to HKC's established practices and policies on public works procurement which is governed by the same government procurement principles that aims to achieve the best value for money and maintain open and fair competition.

Our long-standing government procurement policy is proven to be effective in ensuring that public money is well spent through an open and transparent procurement process. This policy will remain the same regardless of the value of the procurement and whether HKC is a signatory of the GPA.

By acceding to the GPA, Hong Kong traders can improve access to the government procurement markets of all other GPA Parties. This could result in Hong Kong traders being fairly competed in these government procurement markets. The improved business environment will also enhance local employment, and boost the confidence of overseas investors in the fairness and openness of Hong Kong's business environment.

28. What is the Hong Kong, China opinion of the revised text of the GPA currently under discussion at the WTO?

HKC is playing an active part in the review of the GPA with a view to simplifying and improving the Agreement. Indeed, many Parties, including HKC, have submitted proposals regarding the review. HKC believed that a simplified and improved Agreement will facilitate efficient and effective implementation of the Agreement, making it more attractive to non-Parties and contributing to the expanded participation in the Agreement. While some provisions are still in square bracket for negotiations, HKC will continue to work with other Parties to complete the review.

### ***3.7 Transparency***

29. What is your mechanism to ensure an adequate level of transparency regarding laws and regulations related to trade? If it is ensured through a web site, how often is it updated?

It has been our established practice to disseminate information of interest and importance to the public, including Hong Kong's laws and regulations related to trade. We have been informing members of the public of the

trade-related laws and regulations, mainly by way of press releases, trade circulars and messages posted at the website of the TID (<http://www.tid.gov.hk>). TID's webpage has been regularly updated to keep the public abreast of the latest development of various trade-related laws and regulations.

### **3.8 Movement of Business Persons**

30. Could Hong Kong, China please provide further information about the Passenger E-Channels and its facilities, as referred in page 53?

The design of e-Channel is to employ smart card and fingerprint recognition technologies for self-service immigration clearance. Hong Kong resident using e-Channel inserts his Hong Kong Smart Identity Card (ID Card) into a card reader and places his thumb onto a fingerprint scanner at the e-Channel. The system will then verify the fingerprint template captured by the scanner against the fingerprint template stored in the ID Card. If the two templates are matched and there is no irregularity, the Hong Kong resident will be allowed to pass through the channel.

Since May 2008, the e-Channel service was extended to eligible frequent visitors. Enrolment of personal information and fingerprints is a pre-requisite for using the Frequent Visitor e-Channel. After successful enrolment, eligible visitors may enjoy self-service immigration clearance at the Hong Kong International Airport. The enrolment offices are located at the arrival hall of the airport. When the enrolled visitor places his travel document onto the document scanner of the e-Channel, he may enter the e-Channel for fingerprint verification. Upon successful verification of identity, a label containing the visitor's condition of stay will be printed by the system. The visitor may leave after collecting the label.

31. Could Hong Kong, China please provide a deeper explanation of the Capital Investment Entrant Scheme, as referred in page 53?

The Capital Investment Entrant Scheme was launched in October 2003. Its objective is to facilitate the entry of people who make capital investments in Hong Kong but would not engage in running of the business concerned.

An applicant has to meet eligibility criteria, including that they have net assets or net equity to which they are absolutely beneficially entitled with a market value of not less than HK\$6.5 million net throughout the two years preceding the date the application was lodged.

Successful applicants are required to invest in Hong Kong not less than HK\$6.5 million in real estate or permissible financial assets which include equities, debt securities, certificate of deposits, subordinated debt and eligible collective investment schemes. The entrant is allowed to make his choice of investments amongst permissible assets without the need to establish or join in a business and is not required to top up the value of his investment in either asset class should the value of his total investment under the Scheme fall below the requisite minimum level of HK\$6.5 million. Besides, the entrant is free to switch his investments from one permissible asset class to another (e.g. from real estate to financial assets or vice versa) provided that the entire proceeds from the sale of the initial assets are reinvested.

32. Regarding the “Entry For Employment” paragraph of page 53, could Hong Kong, China please provide further information about general restrictions on employment of foreign nationals in its territory?

In accordance with existing legislation, permission given to a person to land in Hong Kong for employment shall be subject to the condition of stay that he shall only take such employment as may be approved by the Director of Immigration. Persons admitted for employment as professional in Hong Kong is only allowed to take the employment for which his visa/entry permit has been approved. Prior approval from the Director of Immigration is required before a change of employment. Persons entered as visitors are not allowed to take up any employment.

### ***3.9 Intellectual Property Rights***

33. With respect to intellectual property, considering that Hong Kong, China is a member of the WTO but not an independent member of WIPO, are there any matters that Chile normally includes in its FTAs which Hong Kong, China could not include in a future FTA negotiation with Chile? If so, please indicate them as well as the reasons for its exclusion.

Both Chile and HKC are members of the WTO and that both sides are bound by the TRIPS Agreement. Many of the international conventions on intellectual property (IP) that are administered by WIPO are applicable to HKSAR although HKC could not be a member of WIPO by its own right as it is not a sovereign state.

In Chile's reply to HKC's questions 48 and 49, there is a table setting out the international IP agreements that are applicable to Chile. Specifically, there are two conventions that are applicable to Chile but not to Hong Kong. They are : (i) Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome

Convention); and (ii) International Convention for the Protection of New Varieties of Plants (UPOV).

For (i), although it is not applicable to Hong Kong, it should not cause concern with respect to Hong Kong's compliance with international standards. The Rome Convention was done in 1961. In WIPO, meetings have been held for a decade aiming at updating the standards laid down in the Rome Convention in view of the technological developments etc. Under Article 14 of the TRIPS Agreement, there are provisions which cover the protection of performers, producers of phonograms and broadcasting organizations. HKC fully complies with Article 14 of TRIPS Agreement and exceeds the standards required in some aspects.

For (ii), although Hong Kong is not a member of UPOV, our plant variety protection regime implemented through the Plants Varieties Protection Ordinance (Cap. 490) is based on the latest version of UPOV that was revised in 1991.

We note that in Chile's reply to HKC's questions 48 and 49, there is indication that Chile has committed to higher standards set out in the TRIPS Agreement and WIPO treaties through bilateral trade agreements. In working out the HKC/Chile FTA on the IP aspect, we are open to suggestion to adopt higher standards if such higher standards also align with the values of relevant stakeholders in Hong Kong.

#### ***4.2 Major Issues Covered in the Trade Agreements Signed***

34. Could Hong Kong, China please specify the extent of the enhanced co-operation accorded with China in Trade and Investment Promotion in the CEPA, as referred in page 61.

The mainland of China and HKC have enhanced co-operation in the area of Trade and Investment Promotion through a number of measures including establishment of notification mechanism on promulgation of relevant trade and investment rules and regulations, establishment of hyperlinks between the economic and trade websites of both sides, organising joint seminar to disseminate the latest content of liberalization measures and the implementation arrangements to the trade, and partnering with the Mainland authorities to organize investment promotion activities, etc.

### ***Other aspects: Cooperation***

35. How do the Parties implement the cooperation aspects of CEPA on different trade areas? What kind of cooperative activities do you use to carry out?

Both sides attach great importance to the effective implementation of various co-operation aspects of CEPA. HKC liaises closely with the Mainland authorities at various levels to introduce measures for effective implementation of CEPA. These measures include early promulgation of the relevant Mainland laws and implementing regulations and introduction of facilitation measures by the Mainland side (e.g. streamlining approval procedure; expediting processing of applications; providing one-stop service centres). Such information is disseminated to the trade through Internet websites, publication of investment guides, and organizing joint seminars promoting deeper knowledge in using and maximizing CEPA benefits.

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## **APPENDIX II HONG KONG, CHINA'S QUESTIONS TO CHILE**

### **Chapter I**

#### ***1.1.A Macroeconomic Features***

1. On page 8 of the Chilean report, it is mentioned that “The governments since 1990 supplemented growth-oriented economic policies with focused social policies and an enhancement in investment in human capital, coupled with a liberalization of the economy.” We would like to know more about what “focused social policies” refer to and their implications, if any, on Chile’s trade policy, particularly with regard to the policy on FTA negotiations.
2. It is also mentioned on page 8 of the Chilean report that “... The core elements of the economic policy over the past 15 years have been based on macroeconomic stability, elimination of domestic market distortions and a gradual lowering of barriers to foreign trade.” Please elaborate on the major domestic market distortions and barriers to foreign trade that have been eliminated and/or lowered. Please also advise the sectors in which such trade restrictive measures were originally maintained. In what specific ways that the Chilean government has been doing to eliminate these market distortions and barriers.
3. On page 9 of the Chilean report, it is mentioned that “During 2007, the share of services (financial, firms and personal) in the total economic activity represented 34.3 percent of GDP, ....” Please explain the definition and coverage of “services (financial, firms and personal).

#### ***1.1.B Trade Policy Regime: Formulation and Implementation***

4. Page 14 of the Chilean report says that one of the objectives of Chile’s trade policy is to reduce the level of effective protection and any existing anti-export bias in the tariff structure. Please elaborate on the existing effective protection and the key features of the existing anti-export bias in the tariff structure that are still in place.
5. Please advise on the priority of the Chilean government as far as trade and industrial policy is concerned in respect of development in trade in goods (industrial, mining and agriculture) and trade in services.
6. Page 15 of the Chilean report mentions that the main objective of the Export Council, which brings together representatives of the private and public sectors, is to make recommendations on export policy formulation. We would like to know if the Export Council has any role to play in matters regarding Chile’s international economic negotiations (including FTA negotiations). If so, how the Chilean government would involve the Export Council in the formulation of trade negotiations policy.
7. It seems that the Export Council advises on matters relating to “export” only. Is there any other bodies or institutions in Chile that advises the Government on general trade policies, e.g. trade negotiations, regional cooperation, etc.? If yes, what are their roles?

8. Page 17 of the Chilean report sets out a number of Chile's domestic laws on trade-related matters. Are they the full list of current laws that concern trade-related matters? If not, could you please provide us with a full list or a hyperlink to these laws?
9. We note from page 17 of the Chilean report that the Customs Law of Chile is Decree Law No. 2/97 of 12 November 1997. However, we also note in Table I.1 on page 16 that the Customs Law is Decree Law No. 30/2004 of 18 October 2004. Would like to clarify whether both Customs Law are applicable to foreign trade.
10. What is the definition of small and medium enterprises (SMEs) in Chile? Are there any special trade policies to support SMEs in Chile?

### ***1.1.C Structure and Features of the Market***

11. Page 18 of the Chilean report says that in Chile, competition is enforced through the application of the Chilean Competition Act. We would like to know more about this Act, such as the scope of application and the key requirements/obligations under this Act.
12. Page 18 of the Chilean report mentions that Chile has included Competition Policy chapters in most of the trade agreements it has negotiated. And in some cases, cooperation agreements are signed. We are interested to know the key features of the Competition chapters in the relevant bilateral agreements and those of the cooperation agreements. We are also interested to know Chile's main considerations for choosing between a Competition chapter and a cooperation agreement on competition.

### ***1.1.D Banking System and Credit Policies***

13. Page 19 of the Chilean report mentions that at end-2007, a total of 13 domestically-owned and 12 foreign-owned banks were operating in Chile. Page 20 of the Chilean report also mentions that the minimum capital requirements and other prudential regulations for foreign banks are the same as for Chilean-owned banks. We would like to know what are the specific conditions/requirements for setting up a foreign bank in Chile.
14. As set out in pages 19 and 22 of the Chilean report, the Superintendence of Banks and Financial Institutions (SBIF) authorises the licensing of new banks. Besides, any bank's merger, capital increase, and any acquisition of 10% or more of the equity interest in a bank are subject to SBIF's approval. As it is also separately stated in the Chilean report that, in terms of financial services, foreign investors generally receive national treatment and there are no quantitative restrictions, does it imply that those specific criteria that the SBIF would take into account in deciding whether to grant the above authorisation / approval do not constitute any quantitative or discriminatory limitations? Should there be any specific criteria that would constitute quantitative or discriminatory limitations, please give an account of those criteria.
15. Page 20 of the Chilean report sets out that in December 2007, there were 12 foreign-owned life-insurance companies and 21 foreign-owned non-life insurers operating in Chile, and that there are no differences in capital requirements between

foreign-owned and Chilean insurance companies. Please advise what are the specific conditions/requirements for setting up a foreign-owned insurance company in Chile.

16. While it is stated in page 22 of the Chilean report that in terms of financial services, foreign investors generally receive national treatment and there are no quantitative restrictions, we note from Chile's existing schedule of specific commitments under the GATS that a supplier of financial services operating through a commercial presence may be subject to an economic needs test (ENT) and that foreign investors who participate in the financial services sector may only transfer their capital abroad two years from the date of its entry. We would like to know whether these market access and national treatment restrictions as stipulated in Chile's GATS schedule are actually in place in Chile. In respect of the ENT requirement, if it is being implemented in practice, we would be grateful if Chile would elaborate on the following elements of the ENT:
  - (a) the triggering of the ENT, specifically whether the ENT is a standing test, or would be invoked only upon certain conditions being met;
  - (b) the criteria of the ENT, specifically the criteria for assessing "economic needs" and arriving at any quantitative limitation to be imposed; and
  - (c) type of quantitative limitation(s) that may be applied as a result of the application of the ENT.
17. It is explained in page 22 of the Chilean report that Chile did not include financial services in bilateral agreements until the trade agreements with the US and EU, and its only international commitments were those scheduled in the Uruguay Round negotiations. Please advise whether Chile has, in its bilateral agreements with the US and EU, undertaken specific market access and / or national treatment commitments in the financial service sector that go beyond its commitments undertaken under the GATS. If yes, please give an account of those GATS-plus commitments for financial services.
18. Pages 22-23 of the Chilean report says that as a matter of policy, there are certain *sine qua non* conditions for Chile in negotiating financial services bilaterally (including negotiated in a separate and self-contained chapter and subject to different disciplines than the rest of services, a separate dispute settlement for financial services, and no extension of MFN treatment to non-Party). Would like to know Chile's main considerations for including or not including financial services in its FTAs and how are the above mentioned areas different from the corresponding provisions governing the services chapter in FTAs of Chile.
19. Thank you for Chile's confirmation in paragraph 16 of its answers that there are at present no economic needs test (ENT) applied to foreign investments that participate in the financial services sector in Chile. We would also be grateful for Chile's confirmation as to whether the limitation that foreign investors who participate in the financial services sector may only transfer their capital abroad two years from the date of its entry, which has also been inscribed in Chile's existing schedule of specific commitments under the GATS, is actually in place in Chile.

### ***1.3 Trade in Services***

20. Page 35 of the Chilean report sets out that major seaports in Chile are owned by the State but concessions have increasingly given to private operators. Further, involvement of the State in the sea ports does not in any way preclude private participation. In this regard, we would like to know -
  - (a) what is the current policy in granting concession to private operators in the operation of sea port and port-related services; and
  - (b) whether local and foreign services providers enjoy the same treatment in applying for / obtaining / exercising the concession?
21. We note that there are four principles that regulate the service liberalisation, including MFN treatment, absence of local presence requirement, NT and progressive elimination of quantitative non-discriminatory restrictions as listed out on page 35. Please advise which are the sectors with quantitative restrictions currently in place, and in what forms are such quantitative restriction being implemented (e.g. setting a ceiling on the number of licences granted)?
22. Page 35 of the Chilean report states that Chile has implemented a profound economic reform over the last twenty years. Key aspects of such reform are the significant changes introduced to the laws and regulations that govern the service sector. Please advise whether such key laws and regulations are specific to certain services sectors (and if so, what are the relevant sectors) or are applied horizontally to all services sectors. We would also be grateful for information on the major features of such laws and regulations which have an impact on foreign supply of services on the four modes of supply of services.
23. Page 37 of the Chilean report shows that transport services, in particular sea transport services, are the largest contributor to Chile's exports and imports of commercial services, and hence are important services sector to the Chilean economy. Yet, we understand Chile has not undertaken any WTO services commitments in the transport services sector, except on air transport services. We would like to know the specific difficulty for Chile to undertake commitments in transportation services, in particular maritime transport services.

### ***1.5 Introduction of FTAs Signed by Each Party***

24. Page 32 of the Chilean report states that "in terms of the results that Chile's trade agreements have had, it can be said that the performances of the Mexico and Canada FTAs, without a doubt, have been outstanding". Please elaborate on the factors/reasons that make these two FTAs the most understanding ones?
25. Page 45 of the Chilean report sets out the main contents of Chile's FTAs with regard to the Chapters on Trade in Goods. Please provide information on the main elements of Chile's FTAs with regard to the Chapters on Trade in Services.
26. After the conclusion of the FTA negotiations, what are the necessary domestic procedures required in Chile before the actual signing the FTA (e.g. any need to seek approval from the Congress, enactment of local legislation)?

## **Chapter III**

### ***III.2 Measures Affecting Trade in Goods***

27. Page 57 of the Chilean report mentions that Chile has a flat MFN custom tariff of 6% for most products, which makes up over 98% of tariff lines. Are we correct to say that for those products listed out in Table 2.10 (i.e. Chile's main imports from Hong Kong), they are currently subject to the import duty of 6%? If not, what is the applicable tariff rate for these products?
28. It is mentioned in page 58 of the Chilean report that several products, including different luxury items, alcoholic beverages, gasoline and vehicles, are subject to other local taxes. Please provide a full list of products that are subject to other local taxes and please elaborate what "other local taxes" are?
29. We note from page 60 of the Chilean report that a Price Band System was modified in 2003. It is also mentioned that a mechanism grants all exporters of the goods covered by this System an instrument that does not affect international trade in anyway. Please provide supplementary information on the System, in particular its relationship with international trade.
30. Pages 64 to 65 of the Chilean report set out that conformity assessment with technical regulations in some cases is carried out directly by the competent Agency through its own infrastructure, and in other cases is carried out by conformity assessment bodies, which are authorized by the Agency for that purpose. For the latter, please advise whether Chile would accept test reports/results carried out by conformity assessment bodies located outside Chile and if so, what these conformity assessment bodies are.
31. It is mentioned in page 67 of the Chilean report that disciplines that extend beyond the TBT Agreement provisions are included in all Chile's bilateral agreements. Please elaborate on the key features of such TBT-plus provisions.
32. Pages 68 to 69 of the Chilean report set out that the Agriculture and Livestock Service is responsible, among other things, for issuing the sanitary and phytosanitary export certificates for animal and plant products while the National Fisheries Service is responsible, among other things, for sanitary control and certification of all hydrobiological products for export. Noting that Chile's major exports to Hong Kong are agricultural and fruit products and foodstuff (Table 2.5), we would like to have more information on the existing sanitary control for the exports of these products.

### ***III.3 Trade in Services***

33. Page 71 of the Chilean report sets out that "There are a few measures that discriminate between national and foreign services providers, which affect the principle of national treatment, and a few minor exceptions to the MFN". Please elaborate what these measures are and what kind of discrimination is currently in place? In which specific services sectors are these measures being applied? Are there any plans to eliminate such restrictions?
34. With regard to telecommunications sector, page 72 of the Chilean report says that there exists a "tariff-setting decree", which establishes for a five-year period the maximum

rate to be charged for long-distance, local and Internet services. Please provide further information on this decree and advise whether it is applied in the same manner to both local and foreign services providers.

35. As set out in page 72 of the Chilean report, the provision of the following telecommunications services in Chile is subject to the issue of concession / permit / official decision by the responsible authorities:
- the installation, operation, and exploitation of public telecommunication services, intermediate telecommunication services, and radio broadcasting telecommunications services;
  - television broadcasting telecommunications services;
  - the installation, operation and development of limited telecommunications services; and
  - complementary telecommunications services (value added services).

For each of the above services, we would like to know the specific criteria that the relevant authorities would take into account when considering applications for their provision, and whether any of the criteria would constitute limitations in terms of market access and national treatment.

36. We would be grateful for information on the general development and the existing regulatory regime of the following services sectors, in particular on measures that would have impact on foreign supply of services in these sectors -
- Maritime transport services;
  - Logistics and related services; and
  - Audiovisual services, in respect of motion picture and video tape production, distribution and projection services.
37. Chile has inscribed in its GATS schedule of commitments horizontal national treatment (NT) limitation that for services under 'professional services' included in Chile's schedule, at least 85% of the staff employed by a services supplier established in Chile must be Chilean. The same requirement applies to all other services listed in Chile's GATS schedule except in the case of enterprises with fewer than 15 persons. Please advise whether the above limitations reflect the de facto regime. If not, what is the actual regime being implemented in practice?
38. There are also various horizontal market access and NT limitations in Chile's schedule of commitments / offers under GATS. Please advise whether such limitations reflect Chile's de facto regime and if not, what the de facto regime is.
39. Thank you for the detailed information provided by Chile on the procedure to grant concessions to the supply of different telecommunications services. We would also like to seek Chile's elaboration as to whether any of the criteria to be taken into account

by the relevant authorities in granting the concessions would constitute limitations in terms of market access and/ or national treatment.

### ***III.4 Foreign Investment Regimes***

40. Is there any agency in Chile responsible for attracting Foreign Direct Investment (FDI)? What are its major roles and services being provided?
41. Page 76 of the draft report states that Chile accords national treatment (NT) to foreign investment once they are established in the country. It further guarantees NT to all individuals the right to develop economic activity, provided applicable legislation is observed and such activities are not contrary to public morals and order or to national security interests. This implies that NT is granted in the post-establishment phase and conditioned to domestic laws and regulations. However, page 80 of the draft report on “Investment Agreements” states that most of the FTAs concluded by Chile cover investment from the “pre-establishment phase”. We would like to know what is the de facto policy/standard with regard to NT accorded by Chile to foreign investment in their bilateral FTAs.
42. Page 76 of the draft report mentions that there are no economic activities reserved for the State, except the special provision regarding mineral resources. Does it imply that Chile impose no horizontal restriction on investment? If not, what are the restrictions currently exist? In addition, is there any restriction on investment at the industry or sector levels?
43. Under the Special Investment Regimes (page 77 of the Chilean report), Decree Law (DL) 600 guarantees investors the right to repatriate capital one year after its entry and to remit profit at any time; and DL investors are exempt from foreign exchange restrictions. Please provide information on the investment regime accorded to investment falling outside DL 600.
44. Page 80 of the Chilean report says that Chile initiated negotiations of Bilateral Investment Treaties (BITs) after adhering to the 1965 Washington Convention (i.e. ICSID) governing investor-State dispute settlement mechanism. We would like to know whether the United Nations Commission on International Trade Law will be considered as an option of international arbitration for dispute settlement, in addition to the ICSID.

### ***III.5.B Anti-dumping Measures and Countervailing Duties***

45. Page 82 of the Chilean report sets out that under the Chile-Canada FTA and the Chile-EFTA FTA, the Parties agreed not to apply antidumping measures to their reciprocal trade respectively. Does it mean that for other bilateral FTAs concluded by Chile, the Parties are allowed to apply anti-dumping measures under the respective agreements? If so, what is Chile’s main consideration for deciding whether or not anti-dumping measures could be used under the bilateral FTAs?

### ***III.6 Government Procurement***

46. Page 85 of the Chilean report mentions that Chile has negotiated Government Procurement chapters in a number of its FTAs. Does it mean that some bilateral FTAs

concluded by Chile do not include a Government Procurement Chapter? If so, what is Chile's main consideration for deciding whether or not to include Government Procurement chapter in its FTAs?

47. On page 85 of the Chilean report, Chile sets out the main elements it would like to include in a GP chapter of a FTA, which includes amongst others, significant coverage in terms of entities, and thresholds. We would like to know more about the coverage in terms of entities (whether negative or positive listings are used) and the thresholds setting in Chile's FTAs with other economies. Specifically on thresholds, whether there is a difference in the thresholds between its FTAs concluded with WTO GPA parties (e.g. the US, South Korea, EU, Japan, Canada) and non-GPA parties (e.g. Australia, Mexico, Colombia, Uruguay).
48. We note that Chile is now an observer of the WTO GPA. Is there any plan for Chile to accede to the GPA?

### ***III.7 Transparency***

49. We note from page 87 of the Chilean report that the transparency rules of Chile's FTAs establish that the governments have to give the opportunity to another Party to make observations about government regulations. Please advise whether there is any mechanism built in to cater for exceptional circumstances, e.g. in cases of urgent need to make regulations, and if so, what is the mechanism.
50. We note that some of the legal texts provided by Chile are in Spanish. Grateful to know whether English translation for the Chilean laws and regulations relating to trade and investment are available. Are there any resources available for traders not proficient in Spanish?

### ***III.9 Intellectual Property Right (IPR)s***

51. Page 93 of the Chilean report that Chile envisages having IPR provisions in an eventual agreement with Hong Kong. Please provide information on the key features of the chapter on IPR in FTAs concluded by Chile.
52. Page 93 of the Chilean report mentions that provisions on Geographic Indications (GIs) are included in most of Chile's preferential agreements. We would like to know the interface between different FTAs on their different interpretation/ recognition on GIs.

### ***III.10 Trade and Environment***

53. We note from page 95 of the Chilean report that Chile considers that FTAs which incorporate environment provisions are an appropriate tool to promote high levels of environmental protection. We would like to know the format of these environmental provisions, e.g. whether forming a chapter of the FTA or as a side agreement to the FTA. Please also advise on the key features of the environment provisions or the cooperation agreements on environment.

### ***III.11 Trade and labour***

54. Page 101 of the Chilean report mentions that provisions about labour have been addressed in Chile's FTAs with different mechanisms, such as a side agreement, labour chapter or independent agreement, with accent in cooperation. Please advise on the key features of the labour provisions or the cooperation agreements on labour. ?

## **Chapter IV**

### ***IV.2.B Rules of Origin***

55. Regarding preferential rules of origin, please advise whether different sets of preferential rules are being adopted under Chile's individual FTAs or a common set of preferential rules is applied to all Chile's FTAs. What are the rules of origin most commonly adopted in Chile's FTAs?
56. We note Chile has elaborated on "Change in tariff classification method" in p. 106 of its draft JFS report that "When a rule of origin is based on a change in tariff classification, each of the non-originating materials used in the production of the goods must undergo the applicable change as a result of production occurring entirely in the RTA region. This means that the non-originating materials are classified less than one tariff provision prior to processing and classified under another upon completion of processing". What is the most commonly used "Change in tariff classification method" currently adopted under Chile's individual FTAs? "CC" (change of chapter), or "CTH" (change of heading), or "CTSH" (change of subheading), or "CTHS" (change of spilt heading), or "CTSHS" (change of spilt subheading)? Or, a combination of them?
57. We also note Chile has mentioned in p. 106 of its draft JFS report that "*there are different formulas for calculating the regional value content*". Does this imply that different formulas for calculating regional value content are adopted under Chile's individual FTAs. If the answer is yes, what are the most commonly used formulas for calculating regional value content?
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