



1 October 2014

(14-5476)

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**Trade Policy Review Body**

Original: English

## **TRADE POLICY REVIEW**

REPORT BY

HONG KONG, CHINA

Pursuant to the Agreement Establishing the Trade Policy Review Mechanism (Annex 3 of the Marrakesh Agreement Establishing the World Trade Organization), the policy statement by Hong Kong, China is attached.

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Note: This report is subject to restricted circulation and press embargo until the end of the first session of the meeting of the Trade Policy Review Body on Hong Kong, China.

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## 1 INTRODUCTION

1.1. This is the seventh Trade Policy Review of Hong Kong, China (HKC) since the establishment of the Hong Kong Special Administrative Region (HKSAR) of the People's Republic of China (PRC). Since the last Trade Policy Review in 2010, HKC's economy has grown continuously despite a challenging external environment. We staged a strong rebound from the recession inflicted by the 2008 global financial crisis, registering a 6.8% growth in 2010. Our economy attained further growth of 4.8% in 2011, 1.5% in 2012 and 2.9% in 2013. In 2013, HKC's GDP was 14% higher in real terms than its pre-crisis peak in 2008, and the domestic labour market was in a state of almost full employment. The institutions and policies that have served HKC well in the past, including the rule of law, free and open market, low and simple tax system, and a level playing field for business, remain the bedrock of HKC's prosperity.

1.2. The Basic Law<sup>1</sup> of the HKSAR provides that the HKSAR shall maintain the status of a free port, safeguard the free movement of goods and capital, be a separate customs territory, and may, on its own, using the name "Hong Kong, China", maintain and develop relations and conclude and implement agreements with foreign states and regions or international organizations in the appropriate fields, including but not limited to the economic and trade fields, as well as participate in international organizations and conferences not limited to states. This is the foundation for HKC's separate membership in the World Trade Organization (WTO).

## 2 MACROECONOMIC SITUATION AND POLICY

### 2.1 Economic Environment

2.1. HKC maintains a business-friendly environment characterized by free trade, free flow of information, robust legal system, sound and transparent regulatory systems, and well-developed transportation and telecommunications infrastructure.

2.2. HKC's GDP grew by 2.2% in real terms year-on-year in the first half of 2014. In the ten-year period ending 2013, GDP increased at an average annual rate of 4.5% in real terms. In 2013, HKC's GDP at current market prices reached HK\$2.1 trillion (US\$274 billion) and its per capita GDP of HK\$296,000 (US\$38,100) was among the highest in Asia.

2.3. HKC is a leading trade and financial centre in the world. In 2013, HKC was the world's eighth largest economy in terms of merchandise trade, eighth largest banking centre in terms of external transactions, sixth largest stock market in terms of market capitalization, and fifth largest foreign exchange centre in terms of turnover.

2.4. In the Index of Economic Freedom released by The Heritage Foundation in 2014, HKC ranks first for the 20<sup>th</sup> consecutive year. Canada's Fraser Institute has also consistently ranked HKC as the freest economy in the Institute's annual report on Economic Freedom of the World. For eight years in a row, we have been accredited by the World Bank with a top ranking for ease of paying taxes. Our corporate profit tax rate is among the lowest in advanced economies. The World Bank has also ranked HKC the second easiest place to do business in the world for the fifth consecutive year.

2.5. HKC's long-term credit ratings are "AAA" by S&P, "Aa1" by Moody's, and "AA+" by Fitch.

### 2.2 Economic Outlook

2.6. More than five years after the outbreak of the global financial crisis, the recovery of the world economy remains modest and uneven, posing a drag on international trade performance. In the near term, the global economic outlook is still overcast by considerable uncertainties, including those associated with the U.S. Federal Reserve's tapering of asset purchases, the lack of growth momentum in the eurozone and the growth slowdown of emerging markets. Geopolitical tensions in different parts of the world are also a source of concern. Yet, the steady growth of Mainland

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<sup>1</sup> Promulgated by the National People's Congress of the PRC, the Basic Law of the HKSAR prescribes the economic, social, government and other systems to be practiced in HKC after its reunification with Mainland China.

China's economy should remain an important stabilizing force to the benefit of Asia's as well as HKC's trading activities.

2.7. Locally, domestic demand is likely to expand at a modest pace in the rest of 2014, as local consumer and business sentiment may stay somewhat cautious given the economic growth slowdown in recent quarters and the still uncertain external environment, although the broadly stable labour market thus far should provide some cushion.

2.8. On the whole, HKC's economy is projected to grow modestly in 2014, at a rate of 2-3%. The medium-term outlook remains positive. HKC will continue to evolve into a knowledge-based economy, concentrating more on high value-adding activities, and complemented by closer economic collaboration with the Mainland of China (the Mainland). Investments in large-scale cross-border and domestic infrastructure projects will continue, and upon their completion, will enhance the competitive edge of HKC's economy.

### **2.3 Fiscal Policy**

2.9. The HKC Government adopts a prudent but progressive fiscal policy with the objectives of enhancing HKC's competitiveness, sustaining economic growth, improving the business environment, increasing employment opportunities, and maintaining the health of public finances, while improving the livelihood and well-being of its people. The HKC Government has had fiscal surplus in ten consecutive years since 2004. As of March 2014, its accumulated fiscal reserves amounted to HK\$756 billion (US\$97 billion). Surplus for the 2013-14 financial year was HK\$22 billion (US\$3 billion) or 1% of GDP. According to the medium range forecast by the HKC Government for the five-year period ending 2018-19, there will be fiscal surpluses in four out of the five financial years, and accumulated fiscal reserves will grow to HK\$799 billion (US\$103 billion), representing approximately 29% of GDP and 19 months of government expenditure.

2.10. The HKC Government set up a Working Group on Long-Term Fiscal Planning ("Working Group") in June 2013. This Working Group performed a health check on the current state of HKC's public finances and made projections on HKC Government's fiscal position up to 2042, having regard to demographic and economic growth trends, as well as prevailing policies. The Working Group has found that in the short to medium term the overall fiscal position will remain healthy. In the longer term, however, the HKC Government must seek to foster economic growth, and align the growth rates of government revenue and government expenditure.

2.11. The HKC Government will ensure the sustainability of public finances by upholding prudent fiscal disciplines and by keeping the government budget commensurate with the growth rate of the economy. We will also strive to preserve, stabilise and broaden the revenue base. The HKC Government's fiscal position remains strong. We are confident that with resolute and timely action to address the fiscal sustainability issue, any structural deficit problem can be averted.

### **2.4 Monetary Policy**

2.12. HKC is a small and highly externally-oriented economy. Our trade-to-GDP ratio was 458% in 2013. A credible fixed-exchange rate system helps minimize the exchange rate risk, benefiting externally-oriented businesses. A stable Hong Kong dollar against the U.S. dollar is also an important anchor for financial stability, which underpins HKC's position as an international financial centre.

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

### **3 TRADE POLICY OBJECTIVES AND DEVELOPMENTS**

#### **3.1 Trade Policy Objectives**

3.1. HKC's trade policy objectives are to support and promote a free, open and stable multilateral trading system; to safeguard our rights and fulfil our obligations under multilateral, regional, plurilateral, and bilateral agreements and arrangements; and to secure, maintain and improve market access for our exports.

#### **3.2 Participation in the World Trade Organization and Doha Development Agenda**

3.2. HKC actively participates in the WTO. Our participation is guided by two objectives - to foster progressive global trade liberalization; and to strengthen the rules of the multilateral trading system so as to provide an effective framework to protect HKC against arbitrary and discriminatory actions by our trading partners.

3.3. Hong Kong was a founding Member of the WTO. Our separate membership, under the name of "Hong Kong, China", has continued after Hong Kong's reunification with the Mainland in 1997. HKC is a staunch supporter of the multilateral trading system. We believe that the rules-based system embodied in the WTO and the WTO's dispute settlement mechanism have provided the most effective insurance against trade protectionism. It is HKC's priority to bring the Doha Round of multilateral trade negotiations to a successful and early conclusion. We will continue to work closely with other Members and contribute to the negotiating process for the successful conclusion of the Round. HKC also participates actively in the work of WTO bodies and committees. Our representatives have chaired various such bodies and committees.

3.4. HKC welcomes the Bali Package agreed at the Ninth Ministerial Conference (MC9) of the WTO held in Bali, Indonesia in December 2013, which comprises an Agreement on Trade Facilitation (TFA) and nine decisions on agriculture, development and least-developed countries issues. We consider the Package an important breakthrough in multilateral trade negotiations, as the TFA is the first multilateral trade agreement concluded since the establishment of the WTO. Being an export-oriented economy and an international trading centre, HKC will benefit from the TFA. As such, expeditious entry into force of the TFA is a top priority for HKC. HKC is the earliest WTO Member, which has notified the WTO of the scheduling of all provisions in Section I of the TFA as Category A commitments, and we are ready to implement them once the TFA enters into force. With regard to other elements of the Bali Package, we will continue to work constructively with other WTO Members to take them forward and to chart a work programme for the remaining Doha issues.

#### **3.3 Bilateral and Plurilateral Trade Cooperation**

3.5. While the multilateral trading system is a cornerstone of our trade policy, we maintain an open mind on pursuing bilateral, plurilateral and regional free-trade agreements (FTAs) with trading partners. We are prepared to explore the possibility of entering into such agreements, so long as they are in HKC's interests, are consistent with WTO principles and provisions, and can contribute to multilateral trade liberalization. Where FTAs are concerned, we have signed a Closer Economic Partnership Arrangement with the Mainland, a Closer Economic Partnership Agreement with New Zealand, a Free Trade Agreement with the European Free Trade Association (EFTA) States, and a Free Trade Agreement with Chile. We have also commenced negotiations for an FTA with the 10 member states of the Association of South East Asian Nations (ASEAN) in July 2014.

##### **3.3.1 Mainland and Hong Kong Closer Economic Partnership Arrangement (CEPA)**

3.6. The Mainland and HKC signed the "Mainland and Hong Kong Closer Economic Partnership Arrangement" (CEPA) on 29 June 2003. CEPA is the first FTA concluded by HKC. CEPA adopts a building block approach, whereby the scope and content of the agreement may be expanded from time to time to suit the needs of the parties. To date, the two sides have concluded ten supplements. Since the last Trade Policy Review of HKC in 2010, Supplements VIII to X to CEPA have been signed in December 2011, June 2012 and August 2013 respectively.

3.7. CEPA provides a platform for HKC and the Mainland to pursue new trade and investment facilitation and liberalization initiatives. In fulfilment of the pertinent objectives of CEPA, both sides seek to:

- a) apply zero tariffs 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 ten designated areas to facilitate trade and investment flows between the two sides.<sup>2</sup>

3.8. Under CEPA, effective from 1 January 2006, all products of HKC's origin can enjoy tariff-free treatment on importation into the Mainland upon fulfilment of the CEPA rules of origin. On the services front, there are 403 liberalization measures under CEPA, enabling HKC service suppliers to have preferential access to the Mainland market in 48 service sectors. CEPA also enhances cooperation of the two sides in financial services, tourism promotion and mutual recognition of professional qualifications.

### **3.3.2 Hong Kong, China–New Zealand Closer Economic Partnership Agreement**

3.9. The Hong Kong, China–New Zealand Closer Economic Partnership Agreement (CEP Agreement) entered into force on 1 January 2011. The CEP Agreement is HKC's first FTA with a foreign economy.

3.10. The CEP Agreement comprises liberalization measures for trade in both goods and services. It also contains provisions on facilitating investment and movement of business persons, as well as other areas such as competition, electronic commerce, intellectual property, government procurement.

3.11. On trade in goods, HKC binds its existing zero-tariff regime with respect to products originating in New Zealand upon the entry into force of the CEP Agreement. New Zealand's tariffs on HKC-origin products have been gradually removed and will be eliminated by 2016.

3.12. On trade in services, the CEP Agreement covers a comprehensive and diverse scope of service sectors, securing better business opportunities and greater certainty for service providers of HKC and New Zealand. The CEP Agreement also includes a set of robust disciplines on domestic regulation to ensure that measures affecting trade in services are transparent, are administered in a reasonable, objective and impartial manner, and do not become unnecessary barriers to trade.

### **3.3.3 Hong Kong, China–European Free Trade Association States Free Trade Agreement**

3.13. HKC and the EFTA States signed an FTA on 21 June 2011. The part of the FTA between HKC, Iceland, Liechtenstein and Switzerland entered into force on 1 October 2012; whereas that between HKC and Norway entered into force on 1 November 2012.

3.14. Apart from liberalization measures for trade in goods and services, as well as provisions to facilitate investment, the FTA also covers other trade-related issues such as protection of intellectual property. The Agreement opens up new business opportunities and strengthens bilateral trade and investment ties.

3.15. The Investment Chapter of the Agreement provides investors in non-service sectors with legal certainty on national treatment, facilitates their temporary entry and stay in HKC and the EFTA States, and provides them with safeguards on movement of capital.

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<sup>2</sup>CEPA promotes cooperation between the two sides in trade and investment promotion; customs clearance facilitation; commodity inspection and quarantine, food safety, quality and standardization; electronic business; transparency in laws and regulations; cooperation of small and medium enterprises; cooperation in industries; protection of intellectual property; cooperation on branding; and cooperation on education.

### **3.3.4 Hong Kong, China–Chile Free Trade Agreement**

3.16. The Hong Kong, China–Chile FTA was signed on 7 September 2012 and is expected to enter into force within 2014 after both parties have completed their domestic procedures.

3.17. Apart from trade in goods and services, the FTA contains provisions to promote competition, facilitate access to each other's government procurement market, protect intellectual property, enhance cooperation in customs procedures, and protect the environment through trade initiatives.

3.18. To further enhance investment flows between HKC and Chile, both sides have agreed to commence negotiations on a separate, comprehensive investment agreement upon the entry into force of the FTA.

### **3.3.5 Free-trade agreement under negotiation between Hong Kong, China and ASEAN**

3.19. ASEAN is an important trading and investment partner of HKC. Formal negotiation of the FTA between the 10 member states of ASEAN and HKC has commenced in July 2014. The scope of the FTA covers trade in goods and related issues; trade in services; investment; intellectual property cooperation; economic and technical cooperation; and dispute settlement mechanism. Both sides are prepared to conclude the FTA as soon as possible to foster even closer partnership and contribute to regional economic integration.

3.20. On the plurilateral front, HKC is a participant of the Agreement on Government Procurement (GPA) and Information Technology Agreement (ITA). We are also taking part in the Trade in Services Agreement (TISA) and Environmental Goods Agreement (EGA) negotiations.

### **3.3.6 Agreement on government procurement**

3.21. HKC is a Party to the GPA and has actively participated in its re-negotiation. We tendered an offer in October 2011 to expand our commitments under the Agreement to cover two more central government entities and six additional services sub-sectors. The offer was warmly welcomed by other GPA Parties. We are amongst the Parties which submitted the instrument of acceptance of the Protocol Amending the Agreement before the Ninth Ministerial Conference of the WTO held in December 2013. The collective efforts of the Parties have contributed to the coming into force of the revised GPA on 6 April 2014.

### **3.3.7 Information technology agreement**

3.22. Given our significant trade interest in the information technology sector, HKC attaches great importance to the discussion on expanding the product coverage of the ITA (generally termed ITA II). We started joining the related-technical discussion in October 2012 by sharing our product wish list and suggestions from the trade. We look forward to the early conclusion of the ITA II negotiation, and will continue to contribute positively to the process.

### **3.3.8 Trade in services agreement negotiation**

3.23. In June 2013, HKC commenced negotiation for the TISA, which involves 23 WTO Members. HKC aims to work with other participants to conclude a high-ambition and comprehensive agreement with broad participation that could be multilateralized in the future. Participation in the TISA would allow HKC to strengthen trade and economic ties with other economies and could provide our service suppliers with more business opportunities in many of our major trading partners as well as some relatively new markets.

### **3.3.9 Environmental goods agreement negotiation**

3.24. HKC together with 13 other WTO Members announced on 24 January 2014 an initiative to begin preparations for negotiations to liberalize trade in environmental goods. The negotiations on the EGA were formally launched on 8 July 2014, with the goal of eliminating tariffs on a wide range of environmental goods. HKC is committed to working towards the timely and successful conclusion of the EGA.



3.25. HKC believes that the EGA is a viable building block for multilateral liberalisation in the trade of environmental goods, given the participants have agreed that the outcome of the negotiations will be applied on a most-favoured-nation basis when the EGA takes effect. We also believe that the EGA will contribute to the international environmental protection agenda. The elimination of tariffs on environmental goods covered by the EGA will lower the cost of those products. This will be conducive to their wider use and to environmental protection generally.

#### **3.3.10 Investment promotion and protection agreements (IPPAs)**

3.26. To give additional assurance to overseas investors that their investments in HKC are adequately protected, and to enable HKC businesses to enjoy similar protection in respect of their investments overseas, HKC has been pursuing IPPAs with other economies.

3.27. As of June 2014, HKC signed 17 IPPAs with other economies, namely Australia; Austria; Belgo-Luxembourg Economic Union; Denmark; Finland; France; Germany; Italy; Japan; Korea, Rep. of; Kuwait, the State of; the Netherlands; New Zealand; Sweden; Switzerland; Thailand; and the United Kingdom. All these IPPAs are in force. Besides, HKC concluded IPPA negotiations with the Kingdom of Bahrain and Myanmar respectively in December 2013. These two IPPAs will be signed after completion of the necessary internal procedures by the parties concerned. Currently, HKC is conducting IPPA negotiations with the Russian Federation.

#### **3.4 Participation in Asia-Pacific Economic Cooperation and Organization for Economic Cooperation and Development**

3.28. HKC attaches great importance to regional economic cooperation with the aim of promoting free and open trade in support of the multilateral trading system. In the past four years, we have continued to participate actively in the Asia-Pacific Economic Cooperation (APEC).

3.29. APEC leaders set a visionary goal of free and open trade and investment in Bogor, Indonesia in 1994 (often referred to as "the Bogor Goals") for industrialized economies to achieve no later than 2010 and developing economies no later than 2020. Since 2010, the APEC Policy Support Unit (PSU) has prepared two interim reviews to assess the progress made towards the Bogor Goals, one in 2012 and another in 2014. Under the 2014 report, the PSU noted that HKC had maintained a very liberal, transparent and open regime for trade in services and investments.

3.30. HKC has been an observer (renamed as "participant" since 2012) to the Organization for Economic Cooperation and Development (OECD)'s Trade Committee and Committee on Financial Markets since 1994 and 1995 respectively. We have also participated in the Trade Session of the OECD annual Ministerial Council Meeting since 2009. We have contributed to and benefited from OECD work, and will continue to participate actively.

### **4 SUSTAINING LONG TERM GROWTH AND IMPROVING BUSINESS ENVIRONMENT**

#### **4.1 Sharpening Competitiveness**

4.1. HKC is essentially a services economy. The contribution of services to our GDP amounted to 93% in 2012. The four pillar industries of HKC are trading and logistics, financial services, tourism, and business and professional services. These four industries collectively recorded a cumulative growth of 84% in terms of nominal value-added over the ten years to 2012, exceeding the overall nominal GDP growth for the same period, employing over 1.7 million people (almost half of the total labour force), and contributing close to 60% of our GDP. They are the linchpin of HKC's economy. HKC is also rapidly developing a number of industries in which we enjoy distinct advantages, to further diversify HKC's economy and secure continued prosperity. They include innovation and technology, cultural and creative industries, testing and certification, environmental industries, intellectual property trading, and wine trading and distribution.

##### **4.1.1 Trading and logistics services**

4.2. Thanks to our physical proximity to the Mainland, strong connections to international markets, world-class infrastructure and quality business support services, HKC has developed into an international trading hub. In 2013, HKC's visible trade (including total exports and imports of

goods) exceeded HK\$8.2 trillion (US\$1.1 trillion), or close to four times of GDP. The trading services industry accounted for more than 21% of nominal GDP and employed close to 16% of the total labour force in 2012. The trading services industry will remain an important pillar of the HKC economy. The HKC Government will continue to seek ways to facilitate the growth and development of the industry by fostering closer economic ties with existing and new trading partners.

4.3. HKC's logistics industry has been developing towards higher value-added service areas such as inventory management, regional distribution and global supply chain management.

4.4. Despite its 1% share in total trade volume, air cargo accounts for over one-third of our total trade in value terms. HKC has registered the world's largest international air cargo throughput for years. To meet the demands of the airfreight logistics industry, the Hong Kong Airport Authority (AA) continues to upgrade the airport's facilities. A new air cargo terminal was fully commissioned last October. Another project scheduled for completion in 2015 will provide a new passenger concourse with an additional 20 aircraft parking stands, and other ancillary facilities.

4.5. HKC is an international maritime centre. There are currently over 700 international and local companies in HKC providing services such as ship management, broking/chartering, ship finance, maritime insurance, legal and arbitration services. The HKC Government supports the long-term development of HKC as a preferred base for operating maritime business in Asia, and is setting up a statutory maritime body to enhance institutional support for such development.

4.6. The Hong Kong Port is one of the busiest container ports in the world, handling 22.4 million TEUs in 2013. There are nine container terminals and other cargo-handling facilities, which are all operated by the private sector. The HKC Government continues to enhance port facilities and related infrastructure to support the development of the port. For instance, a dredging project is being carried out to increase the navigable depth of the container terminal basin and its approach channel by 2016 to enable a new generation of ultra-large container ships to access the container port at all tides. We will continue to strengthen HKC's position as a leading hub port in the region.

#### **4.1.2 Financial services**

4.7. To strengthen HKC's competitiveness in the face of increasing global competition and maintain our position as a leading regional and international financial centre, we will continue to improve the quality of the market, modernise the regulatory regime and upgrade our market infrastructure.

##### **4.1.2.1 Banking industry**

4.8. HKC has an open banking sector whereby local and foreign banks compete on a level playing field. Under the current three-tier licensing system, foreign banks may enter the HKC 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.

4.9. HKC has followed the timetable of the Basel Committee on Banking Supervision in pursuing the Basel III capital, liquidity and disclosure reforms to strengthen the capital position, liquidity management, and financial statement disclosure of the banking sector. The first phase of the Basel III's capital and disclosure requirements has been implemented in 2013. We are taking forward legislative plans to introduce the second phase of the Basel III's capital (i.e. the capital buffer requirements), liquidity (i.e. the liquidity coverage ratio) and disclosure requirements with effect from 2015.

##### **4.1.2.2 Securities and futures**

4.10. HKC has a vibrant securities and futures industry. The Securities and Futures Ordinance provides the legal framework for the regulation of the sector on a par with international standards and practices.

4.11. In 2010, the HKC Government consulted the public on a legislative proposal to oblige timely disclosure of price sensitive information by listed companies. The statutory disclosure regime for inside information commenced operation on 1 January 2013. This regime empowers the Securities and Futures Commission (SFC) to institute proceedings before the Market Misconduct Tribunal directly in respect of these cases. The inside information regime helps promote a continuous disclosure culture among our listed companies for better protection of investors.

4.12. We introduced a regulatory regime for credit rating agencies (CRAs) operating in HKC on 1 June 2011. Under the new regime, both corporate CRAs and their individual rating analysts need to be licensed by the SFC and be subject to a CRA Code of Conduct.

4.13. Furthermore, a statutory regulatory framework for the over-the-counter (OTC) derivatives market in HKC was set up in March 2014. This regulatory regime meets the requirements of the G20 and is in line with developments in other international financial centres. The key aspects of the regime include mandatory reporting, clearing and trading obligations, regulation of the necessary infrastructure, and regulation and oversight of key players in the OTC derivatives market.

4.14. HKC currently has a paper-based securities market regime. Taking into account outcome of the earlier consultation and to facilitate market development, we plan to progress to an uncertificated securities regime so that investors could choose to hold and transfer securities in uncertificated form, which will in turn allow them to possess the legal ownership, instead of beneficial interest only, in the securities. This measure will help enhance the overall efficiency of our securities market, strengthen corporate governance, improve investor protection and maintain our market competitiveness. An amendment bill to provide for the broad regulatory framework for enabling the introduction of an uncertificated securities market regime was introduced into the legislature on 25 June 2014.

4.15. On asset management, we launched a three-month public consultation to introduce a new open-ended fund company ("OFC") structure to complement the existing unit trust structure. The public consultation period ended on 19 June 2014, and we are analysing the comments received before drawing up the necessary legislative proposal.

#### **4.1.2.3 Insurance**

4.16. The insurance industry in HKC is a cosmopolitan and competitive one. A level playing field is maintained for all insurers and insurance intermediaries irrespective of their country of origin. This is evident from the large number of authorized insurers (158 as at 30 June 2014) and the strong presence of foreign companies. About 48% of the authorized insurers were incorporated outside HKC in 22 places, with the United Kingdom (13 insurers) taking the lead.

4.17. 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. Among them are the monitoring of the financial and solvency position of all insurers in HKC, supervision on group and cross-sector insurers and consumer protection requirements. To modernize the regulatory infrastructure, to facilitate the stable development of the industry, provide better protection for policyholders, and align with international practice that financial regulators should be financially and operationally independent of the Government, we are in the process of establishing an Independent Insurance Authority ("IIA"). The relevant amendment bill to provide for a legal framework for establishing the IIA was introduced into the legislature in April 2014. In addition, we are preparing the enabling legislation for the establishment of a Policyholders' Protection Fund in HKC to improve market stability and safeguard the interest of policyholders in the event of insolvency of an insurer.

#### **4.1.2.4 Mandatory provident fund system**

4.18. HKC 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. 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 such as investment management and custody of assets. There is no fixed quota on the number of approved trustees, which stood at 19 as at 31 March 2014. As at March 2014, there were more than 2.4 million scheme members and the aggregate net asset values of all MPF schemes amounted to HK\$516 billion.

#### **4.1.2.5 Offshore renminbi (RMB) business**

4.19. HKC pioneered the development of offshore RMB business and is a major hub serving other offshore RMB centres. As at end May 2014, RMB deposits and outstanding RMB certificates of deposits totalled RMB 1,159 billion. With the development of RMB bonds and equity products, HKC has become the largest centre for conducting offshore RMB financing activities. As at end May 2014, outstanding RMB bonds issued in HKC amounted to RMB 388.4 billion. HKC also serves as a platform for enterprises and financial institutions all over the world to conduct RMB trade settlement, payments and investments. In the first five months of 2014, total RMB trade settlement conducted through banks in HKC reached RMB 2,394 billion. Our RMB clearing platform is also supporting banks from all over the world to conduct their RMB transactions. As at end May 2014, there were a total of 221 banks participating in the RMB clearing platform in HKC, of which 195 were branches and subsidiaries of foreign banks and branches and subsidiaries established overseas by banks in the Mainland.

#### **4.1.3 Tourism**

4.20. Tourism contributes significantly to HKC's economy. In 2013, visitors to HKC exceeded 50 million, an increase of 11.7% over 2012. Total spending went up by 14.8% to HK\$332 billion. Tourism, making up 4.7% of GDP and employing over 250,000 people, has been driving the growth of many other service sectors, such as retail, catering, accommodation and cross-boundary passenger transport services.

4.21. In order to attract high-spending visitors to HKC, we continue to upgrade our tourist facilities, host attractive mega events and maintain the supply of high-end hotel accommodation.

4.22. On tourist facilities, the development of a waterpark in the Ocean Park and additional facilities (a new themed area and a new hotel) in the Hong Kong Disneyland has commenced. The terminal building and the first berth of the Kai Tak Cruise Terminal came into operation in June 2013. A second berth is planned to be commissioned in 2014 and, upon completion of further dredging works, the terminal will be able to accommodate the largest cruise vessels in the world.

4.23. The HKC Government has allocated an additional HK\$45 million for the Hong Kong Tourism Board to provide more attractive and targeted services and concessions for organizers and participants of conventions and exhibitions of various scales and types in the coming three years.

#### **4.1.4 Business and professional services**

4.24. Professional services and other producer services contribute 13% of GDP and employ about 500,000 people. The professional services industry in particular recorded high growth in recent years, contributing nearly 5% of GDP. The HKC Government will continue to strengthen government-to-government (G2G) ties with its Mainland and overseas counterparts and secure more liberalization measures to help HKC's service industries access the Mainland and overseas markets under more favourable conditions through CEPA and other arrangements.

4.25. HKC is rapidly progressing towards becoming a centre for dispute resolution in the Asia-Pacific region. HKC arbitral awards are enforceable in jurisdictions of more than 150 Contracting States under the New York Convention. Arbitral awards made in HKC and the Mainland, as well as those made in Hong Kong, China and Macao, China are also reciprocally enforceable. HKC is increasingly being designated as the place for the resolution of Mainland-related disputes.

4.26. The Hong Kong International Arbitration Centre is instrumental in helping HKC develop as a dispute resolution centre. The International Court of Arbitration of the International Chamber of Commerce established a branch of its secretariat in HKC in 2008. In 2012, the China International

Economic and Trade Arbitration Commission Hong Kong Arbitration Center and the Asia-Pacific Regional Office of the Hague Conference on Private International Law were established in Hong Kong, China. In November 2014, the China Maritime Arbitration Commission will open a branch office in HKC. The presence of these law and arbitration-related institutions is a strong endorsement of HKC's advantage as a legal services hub in the Asia-Pacific region.

#### **4.1.5 Innovation and technology**

4.27. The HKC Government has devoted considerable efforts to foster innovation and high value-added, technology-intensive economic activities. Backed by strong research and development (R&D) capabilities, excellent technology infrastructure, world-class universities, a vibrant pool of R&D talents, a sound legal system and a strong intellectual property protection regime, HKC has an enabling environment for the business sector to collaborate with universities and R&D organizations to conduct applied research and commercialize their innovations.

4.28. The Innovation and Technology Commission administers an Innovation and Technology Fund (ITF), which provides funding for applied R&D projects by universities, research institutions and companies to boost productivity and competitiveness of our manufacturing, and service industries.

4.29. By the end of May 2014, over 3,900 projects were approved, with total ITF funding amounting to over HK\$8 billion (US\$1 billion). The Government has announced plans to expand the scope of the ITF to cover more downstream activities (e.g. development engineering, system integration, industrial design and process optimisation, and compliance testing and clinical trials, etc.). A new scheme will be launched under the ITF to encourage more private sector investment in R&D. Furthermore, an annual funding up to HK\$24 million will be provided to universities through the ITF, initially for three years from 2014-15, to encourage their R&D teams to start technology businesses and commercialise their R&D results.

4.30. The Hong Kong Science Park is home to about 440 technology companies. The Science Park's incubation programme has so far nurtured over 450 technology start-ups. Phase 3 of the Science Park's expansion is underway with a strong focus on green technology. When fully completed in 2016, the new phase will provide space for an additional 150 technology companies and offer 4,000 R&D-related jobs.

4.31. We will continue to create an environment conducive to the development of innovation and technology, encourage investment in this area and enhance cooperation among the Government, industry, academia and research sectors.

#### **4.1.6 Cultural and creative industries**

4.32. The Government supports the development of art and culture in HKC. In 2014-15, we spend around HK\$3.5 billion to nurture local arts groups, artistic talents and arts administrators, encourage students to participate in art and cultural activities, promote public art and enrich artistic programmes, etc.

4.33. The West Kowloon Cultural District (WKCD) project is a strategic investment of the HKC Government to meet the long-term infrastructural and development needs of the arts and culture in HKC. Our vision is to develop a 40-hectare prime waterfront site facing the Victoria Harbour into an integrated arts and cultural district with world-class facilities. The WKCD will serve as a platform for international cultural exchange and performances. From 2015-16, a range of arts and cultural facilities in the WKCD will come on stream in stages.

4.34. To spearhead the development of HKC's creative industries, the Government also set up in 2009 a dedicated office, "Create Hong Kong" (CreateHK) to provide one-stop services to the trade. We run two funding schemes, the Film Development Fund (FDF) and the CreateSmart Initiative (CSI) to support the industries. The FDF, with a commitment of HK\$320 million, provides co-financing support to small-to-medium budget film productions to help nurture film talents. It also funds projects and activities which promote Hong Kong films in the Mainland and overseas, provides training in various aspects of film production and distribution, and enhances the interest and appreciation of HKC films by the local audience. The CSI, with a commitment of

HK\$600 million, provides financial support to initiatives that are conducive to the development and promotion of the non-film creative sectors. Since the establishment of CreateHK, the FDF has funded 17 film production projects and 79 film-related projects while the CSI has funded 206 projects.

4.35. In view of the significant growth potential of the design sector in HKC, the Government has collaborated with the Hong Kong Design Centre (HKDC) to promote Hong Kong, China's design excellence and wider use of design and design thinking in the business and public sectors. The HKDC also seeks to educate the professions and the community to be resourceful champions for sustainable development through design and innovation. The operation of the HKDC, the organization of its two flagship events, namely the Business of Design Week (BODW) and the HKDC Awards which help raise public/business awareness of the value of design and celebrate design excellence, as well as its Design Incubation Programme (DIP) which nurtures design start-ups, are mainly supported by Government funding.

#### **4.1.7 Testing and certification**

4.36. Testing and certification is an industry with good development potentials and a sector where HKC enjoys clear advantages. The number of persons engaged in testing, inspection and certification activities in HKC was 16,680 in 2012. The total business receipts of the private independent establishments in the industry were HK\$10.9 billion in 2012. The direct economic contribution to Hong Kong's Gross Domestic Product (GDP) was HK\$5.8 billion.

4.37. To spearhead the development of the industry, the HKC Government established the Hong Kong Council for Testing and Certification (HKCTC) in September 2009 to advise on the overall strategy to support the development of the industry. Since then, the HKCTC has been working closely with the Government and developing the testing and certification industry through improvement to accreditation services and factors of production, exploration of new opportunities in six specific trades<sup>3</sup>, as well as organization of seminars and promotion activities. Liberalization measures were also included in four CEPA Supplements from 2010 to facilitate wider recognition of HKC's conformity assessment results by the Mainland.

#### **4.1.8 Environmental industries**

4.38. The Government invests heavily in the development of environmental infrastructure facilities and the setting up of various funding schemes to encourage adoption of clean technologies. In the past five years, from 2008-09 to 2012-13, the total investment on environmental infrastructural projects amounted to HK\$22,467 million, while the earmarked funds for funding schemes and other initiatives amounted to HK\$2,259 million. Examples of environmental infrastructure developed include the EcoPark, which is Hong Kong, China's first recycling-business park, and a state-of-the-art district cooling system at Kai Tak Development Area.

4.39. We have been pursuing policy initiatives to promote business opportunities for environmental friendly products and services. In the *Hong Kong Blueprint for Sustainable Use of Resources (2013-2022)* published in May 2013, we set out a series of policy measures to create a more favourable operating environment for sustainable development of the recycling and green industries in HKC. These measures include the implementation of programmes on source separation of waste, the identification of more suitable sites for leasing to the recycling industry, the development of the EcoPark, the promotion of green procurement policy amongst government departments, and the implementation of producer responsibility schemes, etc. In addition, we support the industry's participation in trade promotion activities such as environmental exhibitions and trade missions so as to build local environmental brands, explore business opportunities in the Mainland and increase collaboration with overseas enterprises.

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<sup>3</sup> The HKCTC has identified opportunities to promote the use of testing and certification services in the following six specific trades, namely Chinese medicines, construction materials, food, jewellery, environmental protection and information, and communications technologies.



#### **4.1.9 Intellectual property trading**

4.40. The Government set up a Working Group on Intellectual Property (IP) Trading (the Working Group) in March 2013 to advise on the overall strategy to promote HKC as a premier IP trading hub in the region, and devise specific policies and measures in support. The Working Group promulgated a strategic framework for forging ahead the development of IP trading in November 2013. This framework covers four strategic areas, namely (i) enhancing the IP protection regime; (ii) supporting IP creation and exploitation; (iii) fostering IP intermediary services and manpower capacity; and (iv) pursuing promotion, education and external collaboration efforts. In 2014, the Working Group is working to explore specific policies and other support measures under each strategic area for promoting Hong Kong, China as a regional IP trading hub.

#### **4.1.10 Wine trading and distribution**

4.41. Since the Government abolished all wine duties in 2008, Hong Kong, China has become a regional wine trading and distribution hub and the world's largest wine auction centre. We have imported more than HK\$43.6 billion worth of wine and total wine auction sales in HKC have fetched over HK\$5.8 billion since 2008. HKC's position is also reflected in the hosting of major international wine fairs regularly.

4.42. To help maintain wine quality and promote authenticity, the Hong Kong Quality Assurance Agency (HKQAA) has implemented a scheme since 2009 that accredits wine storage, retail and transport operators with good management systems, which is the first of its kind in the world. Since 2013, HKQAA has implemented another scheme that recognizes supply chain players who trade wines with identifiable sources. These initiatives reinforced the development of wine businesses in HKC.

#### **4.2 Trade Facilitation**

4.43. To facilitate customs clearance, the Customs and Excise Department (C&ED) of the HKC Government rolled out an electronic Road Cargo System (ROCARS) in 2010. With the ROCARS, Customs officers can receive cargo information before the goods arrive at the land boundary. This enables the C&ED to perform computer-based risk profiling in advance to determine whether inspection is called for. As a result, cross-boundary trucks, except those selected for inspection, enjoy seamless customs clearance at the land boundary. The ROCARS also provides added room for the C&ED to facilitate the passage of transshipment cargoes, which involve inter-modal transfer (e.g. from land to air/sea or vice versa) under an Intermodal Transshipment Facilitation Scheme (ITFS). For traders using the ROCARS and having their cross-boundary trucks installed with electronic locks and tracking devices prescribed by the C&ED, their transshipment cargoes (if selected) will normally be subject to customs inspection at either the point of exit or entry.

4.44. In 2012, the C&ED launched the Hong Kong "Authorized Economic Operator" (HKAEO) Programme to encourage local companies to upgrade their internal security and management systems. Companies accredited under this Programme are recognized by the C&ED as trusted operators and enjoy customs facilitation, such as reduced inspection and prioritized clearance of cargoes at control points. The programme is open, voluntary and free-of-charge, and is in conformity with the Framework of Standards to Secure and Facilitate Global Trade advocated by the World Customs Organization.

4.45. As at end of June 2014, the C&ED has entered into Mutual Recognition Arrangements on AEO programmes with the customs administrations of the Mainland, India, the Republic of Korea, and Singapore respectively. Accredited companies will enjoy customs facilitation in those economies.

#### **4.3 Protection of intellectual property rights**

4.46. HKC 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 robust IPR protection to our economic growth.

4.47. We achieve this through comprehensive legislation, rigorous enforcement action, sustained public education, close cooperation with rights owners and other law enforcement agencies, and promotion of intellectual property trading.

#### 4.3.1 Legislation

4.48. HKC has comprehensive legislation for the protection of patents, trademarks, copyright, registered designs, layout-designs (topographies) of integrated circuits and plant varieties. Our intellectual property laws comply fully with the requirements of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights.

4.49. We constantly review our intellectual property laws to ensure that they remain appropriate in present-day circumstances. Since the last Trade Policy Review in 2010, we have reviewed the patent and the copyright regime, and rolled out the following new initiatives:

- (a) The setting up of an original grant patent (OGP) system and a refined short-term patent system;

4.50. In order to keep the local patent system up-to-date and facilitate the development of HKC as a regional innovation and technology hub, the HKC Government conducted a comprehensive review and a public consultation exercise on the patent system in 2011. In 2013, the Government announced the way forward for the development of the patent system in HKC:

- i. introducing an OGP system with substantive examination outsourced to other patent office(s);
- ii. retaining the existing re-registration system for grant of standard patents;
- iii. retaining the short-term patent system subject to suitable refinements; and
- iv. developing a full-fledged regulatory regime for patent agency services in the long run to be achieved in stages, with possible interim measures.

4.51. Subject to the progress of implementation work and preparation of the legislation, we tentatively aim at launching the OGP system and the refined short-term patent system in 2016-17 at the earliest.

- (b) Copyright (Amendment) Bill 2014;

4.52. To meet the challenges posed by advances in technology, we introduced the Copyright (Amendment) Bill 2014 into the legislature in June 2014 to update HKC's copyright regime. The key proposals of the Bill include:

- i. introducing a technology-neutral exclusive right for copyright owners to communicate their works through any mode of electronic transmission;
- ii. introducing corresponding criminal sanctions against unauthorized communication of copyright works to the public;
- iii. expanding the scope of copyright exception under the existing law to balance copyright protection and reasonable uses of copyright works for the following purposes in appropriate circumstances:
  - parody, satire, caricature and pastiche;
  - commenting on the current events;
  - quotation;
  - temporary reproduction of copyright works by Online Service Providers;
  - media shifting of sound recordings; and
  - giving education instructions;
- iv. establishing a statutory "safe harbour" for Online Service Providers so that their liabilities for copyright infringement occurring on their service platforms could be limited; and
- v. providing additional factors for the court to consider in assessing damages in civil cases in which infringement has been established.



#### **4.3.2 Enforcement**

4.53. Rigorous enforcement actions are taken by the C&ED against piracy and trademark counterfeiting activities. The C&ED has a strong enforcement team comprising around 240 officers. The infringement situation in HKC has been brought under firm control.

4.54. The Anti-Internet Piracy Teams and Computer Analysis and Response Team of the C&ED are playing a vital role in tackling Internet piracy. To cope with new enforcement challenges arising from the advance of cyber technologies, the C&ED has successfully developed and launched three systems (collectively called the Lineament Monitoring System) for monitoring and tracing infringement on the Internet with a view to strengthening the enforcement capabilities and enhancing effectiveness in combating online piracy and counterfeiting. These systems operate round-the-clock, targeting "peer-to-peer" file sharing, online sale of counterfeit goods and online piracy using cyberlockers.

4.55. In addition, the C&ED set up an Electronic Crime Investigation Centre (ECIC) in February 2013. The ECIC aims to strengthen research into the latest operation of cyber crimes, formulate enforcement strategies and procedures on evidence collection and conduct training courses on retrieval and preservation of digital evidence for front-line officers. It also conducts research on online investigation systems.

#### **4.3.3 Public education**

4.56. The Intellectual Property Department (IPD) of the HKC Government promotes awareness of and respect for IPR in the community through on-going and sustained public education programmes. These include school visits and programmes for school children, activities collaborated with the rights-holders and youth associations and territory-wide publicity campaigns (e.g. seminars, exhibitions, printed and electronic advertisements, No Fakes Pledges Scheme and I Pledge Campaign) targeted at the business community (both in HKC and the Mainland cities where HKC enterprises have a strong presence), and the general public.

4.57. In 2006, the C&ED, the IPD, the IPR industry and eleven local uniformed youth groups worked together and launched the "Youth Ambassador Against Internet Piracy" Scheme. At present, the number of participating uniformed youth groups has increased to thirteen. By encouraging local young people to report online piracy, the Scheme helps heighten awareness of the importance of IPR protection and secure their commitment to serving the community. Various educational activities including IPR workshops, visits to production companies and competitions are organized for the 200,000 members of the Scheme.

#### **4.3.4 Cooperation with rights owners and law enforcement agencies of other jurisdictions**

4.58. The HKC Government liaises closely with IPR owners to solicit their assistance in fighting IPR infringement. For example, the C&ED has taken the lead in forming an Intellectual Property Rights Protection Alliance (IPRPA). Membership encompasses individual companies and stakeholders in the IPR industry. The IPRPA serves as a platform for voluntary monitoring by the IPR owners of IPR infringement activities in the retail market. Members will report to the C&ED on finding any suspected IPR violation.

4.59. In April 2014, the C&ED established the Electronic Recordation and Triage Centre (ERTC). Through the use of advanced communication systems, the ERTC has helped rights holders, especially those based outside HKC, to complete recordation of their copyrights and trademarks and conduct preliminary examination of the offending goods without the need to come to Customs offices in person.

4.60. We maintain regular liaison with other enforcement agencies in the region to prevent cross-boundary infringing activities. In order to strengthen international cooperation in the protection of IPRs, the C&ED has seconded an officer to the INTERPOL's Trafficking in Illicit Goods and Counterfeiting (TIGC) Sub-Directorate since 2011.

4.61. To guard against transshipment of IPR infringing goods, the C&ED has developed partnership arrangement with major express courier service providers and the Hong Kong Post to facilitate enforcement actions on suspicious parcels. The C&ED has also maintained close cooperation with overseas enforcement authorities to exchange intelligence on both regular and *ad hoc* bases, as well as mounting parallel and joint operations. The C&ED also coordinates closely with international organizations, including the WCO, the WTO, APEC and the INTERPOL in the protection of IPR, and participated actively in various operations coordinated by international organizations.

#### 4.4 Enhancing Corporate Governance

4.62. The HKC Government attaches much importance to upholding HKC's corporate governance standards in line with international standards. One significant development in this area was the enactment of the new Companies Ordinance (Chapter 622), which came into operation in March 2014. This new Ordinance contains provisions that enhance corporate governance on multiple fronts. These include strengthening accountability of directors, improving disclosure of company information, strengthening auditors' rights, enhancing shareholders' engagement in the decision-making process and fostering shareholder protection.

#### 4.5 Competition Policy

4.63. A free and competitive market is the backbone of HKC's economy. In 2012, the HKC Government enacted the Competition Ordinance (CO) to establish a legal framework to prohibit anti-competitive conduct which has the object or effect of preventing, restricting and distorting competition in HKC. Specifically, the CO prohibits anti-competitive conduct in three major areas (described as the first conduct rule, the second conduct rule, and the merger rule). The first conduct rule prohibits agreements, concerted practices as well as decisions of an association of undertakings that have the object or effect to prevent, restrict or distort competition. The second conduct rule prohibits an undertaking with a substantial degree of market power from abusing that power by engaging in conduct that has as its object or effect the prevention, restriction or distortion of competition. The merger rule, which applies only to mergers involving carrier licencees in the telecommunications sector, prohibits mergers and acquisitions that have, or are likely to have, the effect of substantially lessening competition in HKC.

4.64. The CO adopts a judicial enforcement model to separate the powers of investigation and enforcement from adjudication. A Competition Commission, which is an independent statutory body established under the CO, will be responsible for investigation and enforcement action. A Competition Tribunal, established under the CO, will hear and adjudicate alleged breaches of the competition rules.

4.65. Since the enactment of the CO, the HKC Government has been working closely with the Competition Commission and the Judiciary to prepare for the full implementation of the CO. The CO will become fully operational when all relevant preparatory work is completed.

4.66. Pending full implementation of the CO, the Competition Policy Advisory Group (COMPAG), a dedicated forum in the HKC Government for examining, reviewing and advising on competition-related issues as well as promoting Government's competition policy, will continue to review competition issues that have policy or systemic implications, and look into competition-related complaints.

### 5 CONCLUSION

5.1. As a founding Member of the WTO, HKC attaches great importance to the WTO's rules-based multilateral trading system. Our economic achievements owe much to our competitive edges, including free market policy; free flow of goods, capital and information; a sound legal system and an independent judiciary; strong protection of intellectual property rights; a simple tax regime; prudent management of public finances; and a robust financial regulatory framework. We will continue to enhance our competitive advantages and enrich the development of our industries, with a view to promoting sustainable economic development in HKC.

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