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REPORT BY THE SECRETARIAT

HONG KONG, CHINA

This report, prepared for the seventh Trade Policy Review of Hong Kong, China, has been drawn up by the WTO Secretariat on its own responsibility. The Secretariat has, as required by the Agreement establishing the Trade Policy Review Mechanism (Annex 3 of the Marrakesh Agreement Establishing the World Trade Organization), sought clarification from Hong Kong, China on its trade policies and practices.

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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. This report was drafted in English.

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SUMMARY

1. Between 2010 and 2013 (the review period), the economy of Hong Kong, China (HKC) grew at an average annual rate of 3.1% (at 2012 prices), driven chiefly by solid domestic demand, amid a fragile global economic recovery. HKC is one of the world's most market-friendly and open economies, with a trade/GDP ratio of 458% in 2013, and some of the highest rankings in world indicators of economic freedom, competitiveness, and ease of doing business. It also has a very liberal foreign investment regime.

2. In the aftermath of the global financial turmoil (2008-09), the HKC Government implemented countercyclical measures to preserve financial stability and stimulate the local economy, affected by weak external demand. The economy quickly rebound in 2010 and 2011, and after a brief slowdown in 2012, grew by 2.9% in 2013. It is now forecast to expand by 3.75% in 2014.[1]

3. During the review period, HKC continued to strengthen its economic and financial ties with the People's Republic of China (Mainland China), in particular through their Closer Economic Partnership Arrangement (CEPA). The CEPA offers many trade opportunities for HKC's services suppliers and for the territory to consolidate itself as a key intermediary for Mainland China's external trade. The position of HKC as an international financial centre has also benefited from the gradual liberalization of Mainland China's capital account and the increasing international use of the Chinese renminbi. By the same token, closer financial integration has led to greater Mainland exposure of HKC's financial institutions. Overall, HKC's economic prospects are ever more intertwined with the economic performance of Mainland China.

4. Hong Kong, China's sound economic fundamentals, such as a healthy fiscal balance, a strong external financial position, flexible markets and a well regulated financial system, have enabled it to adjust swiftly to challenging external conditions and spared it from the destabilizing effects of the global financial crisis. Fiscal prudence, a key feature of its macroeconomic framework, allowed HKC to maintain a surplus in public finances throughout the review years (although it decreased over the period). Monetary policy continues to focus on currency stability, which has been achieved through a pegged exchange rate to the U.S. dollar since 1983.[2] Low interest rates have led to rapid credit expansion since 2010 and have helped boost domestic demand. After rising quickly in 2010-11, inflation was reduced to just over 4% in 2012 and 2013, thanks to prudential and demand-side measures implemented by the Government to cool off the property market as well as the easing of imported food prices. However, inflation remained higher than in the United States, leading to the real appreciation of the local currency *vis-à-vis* the U.S. dollar.

5. Notwithstanding its sound macroeconomic framework, HKC faces a number of policy challenges, including the need to: preserve fiscal sustainability in the face of an ageing population; address income inequalities and social welfare, health, and education needs; ensure appropriate and affordable housing supply as well as a stable property market; and keep inflation in check.

6. Services remain the dominant sector of the economy, accounting for 93% of GDP and 88% of total employment (2012). The most dynamic subsectors during the review years were wholesale and retail trade; accommodation and food services, which benefited from vibrant inbound tourism; and finance and insurance. Because of its services-orientation, HKC relies heavily on imports of goods to satisfy domestic consumption. This is reflected in a persistent deficit in the goods trade balance, which has been more than offset by large surpluses in services trade, mainly due to exports of transport, travel, and financial services. Given that HKC is the world's largest free zone, re-exports are the driving force of its goods trade, and Mainland China is its main trading partner, receiving 55% of HKC's re-exports and supplying 48% of HKC's merchandise imports (2013).

7. Hong Kong, China is a firm supporter of the multilateral trading system, the conclusion of the Doha Development Agenda, and the implementation of the Bali package. It has committed to

[1] IMF Press Release N° 14/238, 22 May, "Executive Board Concludes 2014 Article IV Consultation with People's Republic of China-Hong Kong Special Administrative Region". Viewed at: http://www.imf.org/external/np/sec/pr/2014/pr14238.htm.

[2] Recently, HKC's monetary authority intervened in the foreign exchange market to maintain the currency peg, as increased capital market activity (from new mergers and acquisitions) triggered the strengthening of the local currency.

implement the Trade Facilitation Agreement upon its entry into force, without using any flexibility. HKC is a party to the WTO Information Technology Agreement and the revised Government Procurement Agreement (GPA), and participates in other plurilateral initiatives such as the negotiations on the Trade in Services Agreement (TISA) and the recently-launched talks on environmental goods among WTO Members. Perhaps the most salient development in HKC's trade policy stance during the review period is its active engagement in free-trade agreements (FTAs). Since 2010, HKC has signed FTAs with New Zealand, the EFTA member states, and Chile (with the two former already in effect). It has also signed five supplements to the CEPA with Mainland China, and is currently negotiating an FTA with ASEAN countries. The HKC authorities have indicated that they are prepared to enter into bilateral, plurilateral, and regional free-trade agreements, as long as they are consistent with the WTO and can contribute to multilateral trade liberalization.

8. A landmark development in HKC's economic policy reform is the adoption of its first comprehensive competition law in 2012. The Competition Ordinance applies to all economic sectors, provides a legal framework to deal with different types of anti-competitive conduct and follows international best practices. However, merger control remains limited to the telecommunications sector, and statutory bodies are exempted from the Ordinance. A Competition Commission with ample investigative powers will be responsible for enforcing the law and developing competition guidelines, and a Competition Tribunal will adjudicate proceedings and grant remedies, including pecuniary penalties and relief.

9. HKC applies a duty-free tariff regime on an MFN-basis, but more than half of its tariff schedule remains unbound in the WTO. Given HKC's free-port status, customs procedures are among the easiest and fastest worldwide, with virtually all customs declarations and related documents processed electronically. Among the measures implemented by HKC in the past few years to facilitate trade and enhance its role as a transit hub are the formal introduction of an authorized economic operator programme, an intermodal transhipment facilitation scheme, and lower customs declaration fees. Customs valuation is only used for collecting excise duties on four products (liquor, tobacco, hydrocarbon oil, and methyl alcohol) and a first registration tax on motor vehicles.

10. Non-tariff measures are few, and import prohibitions and licensing are applied mostly on safety, health, and environmental grounds or to comply with international obligations. Licensing and notification requirements for textile trade with "non-sensitive markets" and for textiles transhipments were lifted in 2011, and there are plans to remove the remaining requirements on textile trade before the end of 2014, subject to the passage of the relevant legislative reforms. HKC has no legislation on contingency measures and safeguards.

11. The TBT and SPS systems are transparent and relatively simple. A new Food Safety Ordinance became effective in February 2012; it establishes a registration scheme for food importers and distributors, and requires food traders to maintain proper transaction records for a specified period in order to enhance food traceability.

12. No export taxes are applied. Goods subject to export prohibition and licensing are basically the same as those subject to import licences and are applied for the same reasons. An export licence for powder formula for infants and children under 36 months was introduced in March 2013 to ensure local supply of the product. Excise duties are refunded if the goods on which they were paid are exported. The Government supports exporters, mainly through export credit insurance and funding for export promotion activities. In June 2012, HKC established a Brand, Upgrade, and Development (BUD) fund to provide export assistance for locally registered SMEs to target Mainland China's market.

13. HKC maintains a simple tax structure with a narrow base and low rates. Nevertheless, several tax incentives are offered, including for the purchase of environmentally friendly commercial vehicles and for IPR-related expenditure. Non-tax incentives, mainly to support SMEs and R&D activities, are provided in the form of loans, loan guarantees, and cash grants, but the scale of assistance is modest.

14. Hong Kong, China was one of the first WTO Members to ratify the revised GPA, and improved its commitments by adding new government entities and types of services to its

schedule. The IP regime has remained largely unchanged, but there are important ongoing initiatives to amend legislation on copyrights and patents. HKC has gained international recognition for its actions to improve public awareness and enforcement of IPRs, and is taking active steps to fight against the new global challenges raised by IPR-infringing activities in the digital environment.

15. The agriculture and fisheries sector is very small, representing only 0.1% of GDP and total employment. The manufacturing sector continues to shrink and accounts for less than 2% of GDP. No direct policy instruments have been applied to reverse this trend. Mainland China is the largest market for manufactured exports from HKC, but "domestic merchandise exports" to Mainland China under CEPA account for less than 50% of total "domestic exports".

16. Hong Kong, China has consolidated itself as a regional or even global centre in sectors such as financial services, and maritime and air transport. HKC's GATS commitments are not always extensive, but the applied regime is quite liberal, as is reflected in the standstill-based, negative list in the HKC-EFTA States free-trade agreement. This contains very few reservations, notably for future measures, most of which are of a purely precautionary nature without effective application so far. The regime defined by this agreement is applied *erga omnes*.

17. The telecommunications regime was liberalized in 2003. The market is quite competitive judging by the number of operators, at least for fixed-telecom services, and by prices benchmarked on an international scale by the International Telecommunications Union. The mobile telephone market is dominated by three local firms that won a recent 4G/LTE international auction, as is the fixed-telecom market.

18. In financial services, HKC appears as a dynamic regional and global financial hub (e.g. for the IPO market). Three local banks dominate the domestic market but the largest part of the financial sector is devoted to offshore services, in particular towards Mainland China, and in which virtually all major global players are represented. The applied regime is quite liberal and has been further relaxed regarding establishment requirements for foreign banks to set up a locally incorporated fully licenced bank. Otherwise, the market access regime for financial services has not changed substantially and most of the measures taken since the last Review are of a domestic regulatory and prudential nature.

19. HKC is the 4^{th} largest port in the world (after Shanghai, Singapore, and Shenzhen), and has the 4^{th} largest registry (after Panama, Liberia, and the Marshall Islands). Favourable operating conditions and the cluster of maritime-related services offered by HKC have attracted investment from global shipowners, which explains why a very large part of the tonnage in the registry is owned by foreign interests. In addition, HKC shipowners own a sizable fleet under flags other than HKC's flag. The shipping policy is liberal with no restriction on onshore activities and establishment, and absence of or cargo-sharing regimes. There are no support or subsidy schemes but income derived from international activities under the HKC flag are exempt from profits tax. Most container terminals are managed privately, essentially by local firms but also with a significant foreign investment presence under lease agreements.

20. HKC has a relatively liberal regime for its bilateral air transport agreements. However, having the number one air-cargo airport in the world, considering this activity as strategic, and facing capacity and land constraints, HKC has a relatively less liberal regime for certain auxiliary services (e.g., cargo ground handling and maintenance services), which are subject to a limited number of licences. Computer reservation services, and selling and marketing services are fully liberalized.

21. Distribution is a major sector of the HKC economy, representing nearly 10% of employment and almost 5% of GDP. HKC's GATS commitments on distribution services are limited to retail services with a liberal regime (no restrictions for market access under mode 3). The free-trade agreements signed by HKC cover the totality of the sector with very limited reservations. The activity is essentially unregulated except for zoning and urban planning purposes. Numerous foreign distributors are present but the supermarket segment is largely dominated by local interests. Traditional open-air fresh food markets ("wet markets") remain an important component of HKC's distribution system.

1 ECONOMIC ENVIRONMENT

1.1 Recent Economic Developments

1.1. Between 2010 and 2013, the economy of Hong Kong, China (HKC) expanded moderately, at an average annual rate of 3.1% (at 2012 prices), sustained primarily by domestic demand. Hong Kong, China's services-oriented economy remains one of the most open in the world, with a ratio of trade (goods and non-factor services) to GDP of 458% in 2013. As such, it is particularly sensitive to changes in the global economic environment. After being hit by the 2008-09 global economic downturn, the economy of HKC made a solid rebound in 2010, supported by the revival of global trade and the Government's stimulus and relief measures.[1] However, GDP growth slowed down again in 2011-12, amid a fragile international economy.

1.2. In 2013, the economy of HKC grew by 2.9% (Table 1.1), faster than in 2012 but still slower than the trend in the past decade, reflecting sluggish economic performance in both advanced and emerging economies. In 2013, GDP growth was driven by domestic demand and services exports, in particular tourism. Within the domestic sector, private consumption was the main driving force thanks largely to rising real incomes, while investment showed only modest growth, attributed mainly to increased purchases of machinery and equipment. Due to weak external demand, net merchandise exports made a negative contribution to growth.

1.3. In the aftermath of the global financial crisis and amid a still challenging external environment, the HKC Government took counter-cyclical measures to stimulate the economy as well as measures to safeguard financial stability and restore public confidence. On the fiscal side, these included: (i) measures to create jobs, such as infrastructure projects and works, extending temporary positions, providing internships opportunities and employment assistance; (ii) relief measures for people and enterprises, such as waving certain fees, providing one-off tax relief, temporary free rent for public housing, and one-off electricity subsidies; and (iii) assistance and loan guarantees to small and medium-size enterprises (section 3.4.2). The fiscal measures, as included in the Government budgets, were estimated to have a stimulus effect on the economy of 1.5% in 2012 and 1.3% in 2013. Measures to preserve financial stability include strengthening supervision and regulation of the insurance industry in line with international standards (e.g., planned legislative reforms to establish an independent insurance regulator and a policyholder's protection fund), and improving the overall financial sector resolution regime.

1.4. During the period under review, HKC continued to deepen economic integration with its main trading partner, the People's Republic of China (Mainland China), especially through their Closer Economic Partnership Arrangement (CEPA) (section 2.3.2.4). CEPA offers many trade opportunities for HKC to leverage on its comparative advantage in the services sector, and to strengthen its role as key intermediary for Mainland China's external trade. The position of HKC as a major global financial centre is poised to benefit from the gradual opening of Mainland China's capital account and the increasing international use of the renminbi (RMB). Specifically, HKC benefits from Mainland China's liberalization measures, which increase the scope for using the RMB in cross-border trade and investment transactions with the territory and the rest of the world. All this is in line with HKC's objective of establishing itself as an off-shore RMB centre and asset management centre for the Mainland. By the same token, closer financial integration has meant rising Mainland exposure for HKC's banks. Overall, the economic growth prospects of HKC are inextricably linked to the economic performance of Mainland China.

1.5. Along with stronger trade and financial ties, HKC has worked to enhance transport integration with the Mainland (in particular with Guangdong and other neighbouring provinces). Several major infrastructure projects are under construction such as the Hong Kong-Zhuhai-Macao bridge and the project to link HKC's rail network with Mainland China's high-speed rail. These projects are expected to enhance the efficient cross-border flow of goods and people, and the role of HKC as a logistics hub in Southern China.

[1] WTO (2010).

Table 1.1 Selected macroeconomic indicators, 2010-2013

	2010	2011	2012	2013
Real GDP (HK$ billion, 2012 prices)	1,914.4	2,006.0	2,037.1	2,096.8
Real GDP (US$ billion, 2012 prices)	246.4	257.7	262.6	270.3
Current GDP (HK$ billion)	1,776.3	1,934.4	2,037.1	2,125.4
Current GDP (US$ billion)	228.6	248.5	262.6	274.0
GDP per capita at current market price (HK$)	252,887.0	273,550.0	284,721.0	295,701.0
GDP per capita at current market price (US$)	32,551.0	35,143.0	36,710.0	38,125.0
National accounts	(% change, unless otherwise indicated)			
Real GDP	6.8	4.8	1.5	2.9
Consumption	5.8	7.6	4.0	4.1
Private consumption	6.1	8.4	4.1	4.3
Government consumption	3.4	2.5	3.6	2.3
Gross domestic fixed capital formation	7.7	10.2	6.8	3.3
Building and construction	5.7	15.7	7.2	-0.9
Machinery, equipment and IP products	6.5	12.3	10.1	10.8
Exports of goods and non-factor services	16.8	3.9	1.9	6.4
Goods	17.3	3.4	1.8	6.6
Services	14.7	5.5	2.2	5.5
Imports of goods and non-factor services	17.4	4.6	2.9	6.8
Goods	18.1	4.7	3.0	7.4
Services	11.1	3.5	1.9	2.0
XGS/GDP (%) (at current market price)	219.4	225.5	225.6	229.6
MGS/GDP (%) (at current market price)	213.5	221.6	224.4	228.7
Unemployment rate (%)	4.3	3.4	3.3	3.4
Labour force participation rate (%)	59.6	60.1	60.5	61.2
Prices and interest rates				
Inflation (CPI, % change)	2.4	5.3	4.1	4.3
Best lending rate[a] (period average)	5.00	5.00	5.00	5.00
Deposits rate (period average)	0.01	0.01	0.01	0.01
Exchange rate				
HK$/US$ (period average)	7.769	7.784	7.756	7.756
Nominal effective exchange rate (% change)[b]	-2.6	-5.2	2.4	2.7
Real effective exchange rate (% change)[b]	-1.9	-1.2	6.6	2.2
	(% of GDP, unless otherwise indicated)			
Fiscal balance[c]				
Government opening reserve balance	29.3	30.8	32.8	34.5
Total revenue	21.2	22.6	21.7	21.4
Current revenue	16.9	17.5	16.9	..
Tax revenue	13.6	14.2	13.7	13.6
Total expenditure	17.0	18.8	18.5	20.4
Current expenditure	13.5	15.3	14.9	..
Government consolidated balance	4.2	3.8	3.2	1.0
Fiscal reserves (at 31 March)	33.5	34.6	36.0	35.6
Public sector debt	0.6	0.6	0.5	0.5
Saving and investment				
Gross national savings	30.9	29.7	26.8	25.6
Gross domestic investment	23.9	24.1	25.2	23.8
Savings-investment gap	7.0	5.6	1.6	1.8
External sector[d]				
Current account balance	7.0	5.6	1.6	1.9
Goods balance	1.4	-3.0	-7.2	-9.6
Exports	170.1	176.1	178.3	185.6
Imports	168.7	179.1	185.5	195.2
Services balance	4.4	6.9	8.3	10.4
Capital account	-0.2	-0.1	-0.1	-0.1
Financial account	-4.8	-5.7	-3.3	-1.8
Direct investment	-6.9	0.1	-5.0	-5.4
Balance of payments	3.3	4.5	9.3	2.7
Terms of trade (2010=100)	100.0	99.9	100.0	100.4
Goods exports (% change)[e]	22.8	12.5	7.0	8.6
Goods imports (% change)[e]	27.1	15.4	9.5	9.8
Services exports (% change)[e]	24.5	13.4	7.9	7.1

	2010	2011	2012	2013
Services imports (% change)[e]	15.2	5.5	3.2	0.4
Foreign exchange reserves (US$ billion, end period)	268.7	285.4	317.4	311.2
in months of imports of goods[f]	28.7	25.9	27.9	26.4
Total external debt (HK$ billion)	6,834.1	7,649.3	7,987.5	9,043.4
% of GDP	384.7	395.4	392.1	425.5

.. Not available.

a Best lending rate refers to the average of the rates over the period quoted by the Hong Kong and Shanghai Banking Corporation Limited.
b Figures are based on 2010 index numbers (unit labour costs) taken from the IMF.
c Figures are based on fiscal year beginning 1 April. The GDP denominator is based on calendar year GDP figures.
d Figures for trade in goods and services are calculated according to conventional methodology, i.e. without adopting the new principle in recording goods sent abroad for processing and merchanting.
e Growth rates are calculated based on balance-of-payment figures in US$.
f Figures are calculated based on past 12-months average of retained imports of goods.

Source: Census and Statistics Department online information. Viewed at: http://www.censtatd.gov.hk; International Monetary Fund, *International Financial Statistics*; and data provided by the authorities.

1.6. HKC's economic strengths include a healthy fiscal balance, a sound and well regulated banking system, and a strong external financial position with abundant foreign exchange reserves. These strengths have enabled it to swiftly respond and adjust to a changing international environment. From the point of view of the private sector, HKC has much to offer in terms of an attractive business climate, an efficient logistics chain, low taxation, deep and diversified capital markets, and an independent legal system. HKC has earned some of the highest rankings in world indicators of economic freedom, competitiveness, and ease of doing business.[2] On the other hand, HKC also faces important policy challenges, including the need to: preserve fiscal sustainability in the face of an ageing population; address income inequalities; ensure appropriate housing supply and a stable property market; and maintain inflation in check.

1.7. Hong Kong, China remains committed to fiscal prudence, a key element of its macroeconomic policy framework, which is deemed essential to maintain the confidence of local, overseas, and international investors. The authorities follow the principle of keeping expenditure within the limits of revenues in drafting the budget, and strive to achieve fiscal balance, while keeping the budget aligned with GDP growth. They are also committed to maintaining a low and simple tax system, while providing appropriate public and social services, especially for low-income and vulnerable groups. HKC has a narrow tax base, and its main sources of revenue are profits tax, land premiums, salaries tax, and stamp duties. On the expenditure side, the authorities aim to keep spending at no more than 20% of GDP.

1.8. In each of the four years under review, the fiscal balance recorded a surplus, although it decreased over the period (Table 1.1). At the same time, the Government managed to accumulate abundant fiscal reserves (35.6% of GDP as of March 2013), while keeping very low debt levels. In 2013, total revenue and total expenditure were equivalent to 21.4% and 20.4% of GDP, respectively. Prospects of increased spending on health care and social welfare to address the needs of an ageing society will most likely put pressure on the Government's consolidated balance.[3] Hence, maintaining a healthy fiscal position will rank high on the authorities' economic priorities in the years to come. A Working Group on Long-term Fiscal Planning was set up in June 2013 to explore ways to undertake more comprehensive planning for HKC's public finances with a view to coping with the demands of an aging population and other long-term commitments of the Government such as social welfare, health, and education.[4]

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[2] The Heritage Foundation (2014); World Economic Forum (2014); and World Bank (2014).
[3] Spending on health care, social welfare, and education already represents some 60% of the Government's recurrent expenditure.
[4] The Working Group is led by the Permanent Secretary for Financial Services and the Treasury (Treasury Department) and comprises Government officials, scholars, and experts. The group has reported that the prospects of an ageing population and a shrinking working force will cause the fiscal position to deteriorate in some 15 years. Viewed at: http://www.fstb.gov.hk/tb/en/report-of-the-working-group-on-longterm-fiscal-planning.htm.

1.9. As a highly open economy and renowned global financial centre, HKC is committed to maintaining a credible fixed exchange rate system that helps minimize exchange rate risk for businesses and acts as an anchor for financial stability. Hence, currency stability is the principal monetary objective of the Hong Kong Monetary Authority (HKMA). This has been achieved through the implementation, since 1983, of the Linked Exchange Rate System (LERS), whereby the external exchange value of the Hong Kong dollar is pegged to the U.S. dollar, trading at around HK$7.80 to US$1.00. Currency board arrangements require 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$1.00. In 2012 and 2013, the Hong Kong dollar real effective exchange rate appreciated moderately (Table 1.1). Under the LERS, interest rates in HKC closely follow those in the United States. During the reviewed period, this led to low interest rates, abundant liquidity, and rapid credit growth in HKC, which in turn helped boost domestic demand.

1.10. In the first two years covered by this Review, inflation (measured as the Consumer Price Index) rose quickly from low levels, to 5.3% in 2011, on the back of increasing domestic demand, higher prices for imported food and fuels, and rising housing prices. In order to cool off the property market, mitigate the inflationary effects of surging housing prices, and preserve financial stability, the Government implemented tighter prudential measures (such as maximum loan-to-value ratios and debt service ratios) and demand-side management measures (higher and new property stamp duties), while granting two months free rent to public housing tenants and increasing land supply for housing. Along with the easing of imported food prices, these measures helped reduce inflation to just over 4% in 2012 and 2013 (Table 1.1). However, this rate was considerably higher than the U.S. inflation rate, leading to the real appreciation of the Hong Kong dollar vis-à-vis the U.S. dollar in 2012 and 2013.

1.11. The labour market remained tight for most of the period under review, owing to resilient domestic demand and abundant new job opportunities in the private sector. Total employment has been on the rise in recent years, reaching record highs in 2013, on the back of robust labour demand, matched by a similar increase in the supply of labour. The annual unemployment rate fell from 4.3% in 2010 to 3.4% in 2013 (Table 1.1). In line with the tight labour market conditions, wages and earnings increased almost across-the-board, with the low-skilled segment of the workforce faring remarkably better, thanks in part to the implementation of the Statutory Minimum Wage since May 2011. The overall labour force participation rate rose to 61.2% in 2013, the highest level since 2007.[5]

1.12. Nominal GDP per capita increased to HK$295,701 (US$38,125) in 2013, one of the highest in East Asia. Nonetheless, the income gap remains significant, as measured by the Gini coefficient, which was at 0.537 in 2011 based on original household income (and at 0.475 based on post-tax post-social transfer household income).[6] In recent years, several factors have affected income distribution, including a transformation of economic structure, a continuous decline in average household size, and an ageing population. To mitigate the effects of income disparity, the Government has increased public expenditure on healthcare and welfare, provided social benefits and relief measures for lower-income groups, and introduced a statutory minimum wage. Abundant fiscal resources have provided adequate scope for addressing these concerns.

1.13. The structure of Hong Kong, China's economy remains dominated by the services industries, which accounted for 93% of GDP and 88.4% of total employment in 2012 (Table 1.2).[7] Within the services sector, the main contributors to GDP continue to be imports/exports, and wholesale and retail trade (25.4%); public administration, social and personal services (16.8%); and finance and insurance (15.9%). The contribution of agriculture, fishing, and mining is very small, accounting for a mere 0.1% of both GDP and total employment in 2012, while the manufacturing sector contributed 1.5% to GDP and 3.0% to employment.

[5] Information provided by the HKC authorities.
[6] Government of the Hong Kong Special Administrative Region (2012).
[7] At the time of writing this report, GDP figures by sector for 2013 were not yet available.

Table 1.2 Basic economic indicators, 2010-13

	2010	2011	2012	2013
GDP by economic activity in real terms (annual %age change)				
Agriculture, fishing, and mining	3.9	0.8	-3.2	1.3
Manufacturing	3.3	0.7	-0.8	0.1
Electricity, gas and water supply, and waste management	-0.2	0.6	1.4	-0.7
Construction	15.6	18.3	8.3	1.1
Services	6.9	5.2	1.8	2.9
Import/export, wholesale, and retail trade	16.7	9.1	1.9	3.6
Import and export trade	16.5	6.3	0.6	2.3
Wholesale and retail trade	17.4	22.2	7.3	9.2
Accommodation and food services	9.5	8.3	1.8	3.7
Transport, storage, postal, and courier services	6.0	7.2	0.9	2.5
Information and communications	1.5	2.8	2.8	4.2
Finance and insurance	6.3	6.5	0.8	5.6
Real estate	-1.4	1.8	3.9	-3.9
Professional and business services	6.5	3.3	2.3	4.2
Public administration, social and personal services	2.2	1.8	2.1	2.6
Ownership of premises	0.8	0.7	1.1	0.4
Share of GDP at current basic prices (%)				
Agriculture, fishing, and mining	0.1	0.0	0.1	..
Manufacturing	1.8	1.6	1.5	..
Electricity, gas, and water supply and waste management	2.0	1.8	1.8	..
Construction	3.3	3.4	3.6	..
Services	93.0	93.1	93.0	..
Import/export, wholesale, and retail trade	23.8	25.9	25.4	..
Import and export trade	19.7	21.1	20.4	..
Wholesale and retail trade	4.1	4.8	5.0	..
Accommodation and food services	3.2	3.5	3.6	..
Transport, storage, postal, and courier services	7.9	6.3	6.0	..
Information and communications	3.2	3.3	3.5	..
Finance and insurance	16.3	16.1	15.9	..
Real estate	5.1	5.6	5.8	..
Professional and business services	5.7	5.7	5.7	..
Public administration, social and personal services	17.0	16.5	16.8	..
Ownership of premises	10.6	10.3	10.3	..
Share of sector in total employment (%)[a]				
Agriculture, fishing, and mining	0.1	0.1	0.1	0.1
Manufacturing	3.2	3.1	3.0	2.9
Electricity, gas, and water supply and waste management	0.4	0.4	0.4	0.4
Construction	7.5	7.6	8.0	8.3
Services	88.7	88.7	88.4	88.3
Import and export trade	15.0	14.5	14.2	13.8
Wholesale and retail trade	10.4	10.3	10.4	10.4
Transport, storage, postal, and courier services	9.0	8.9	8.7	8.7
Accommodation and food services	7.5	7.4	7.3	7.4
Information and communications	2.7	2.7	2.8	2.8
Finance and insurance	6.2	6.3	6.3	6.1
Real estate	3.3	3.4	3.5	3.4
Professional and business services	9.4	9.5	9.7	9.8
Public administration, social and personal services	25.1	25.6	25.6	25.9

.. Not available.

a Employment figures for 2013 are preliminary.

Source: Census and Statistics Department online information. Viewed at: http://www.censtadt.gov.hk , and data provided by the HKC authorities.

1.14. The most dynamic services sectors over the review period were: wholesale and retail trade, which grew at an average annual rate of 12.7% in real terms between 2010 and 2013 on the back of strong domestic demand; accommodation and food services (4.6% average annual growth), which benefited from vibrant inbound tourism; and finance and insurance (4.3% average annual growth). The construction sector was also quite dynamic, posting real annual growth of 9% between 2010 and 2013.

1.15. During the period under review, HKC continued to foster the development of six economic areas identified in 2009 as having competitive advantages for further growth: testing and certification, medical services; innovation and technology; cultural and creative industries; the environmental industry; and educational services.[8] For example, steps were taken to improve the accreditation system and encourage the development by third parties of new certification schemes and testing methods. The framework for the promotion of innovation and technology was reviewed to reflect a strong emphasis on the realisation/commercialization of R&D outcomes, while funding support was enhanced. In 2012, the selected industries contributed 8.7% to GDP and 11.9% to total employment.[9]

1.16. As regards the external sector, HKC's current account recorded a surplus throughout the reviewed period, although the size of the surplus decreased sharply in 2012, owing mainly to a negative balance in goods trade caused by faster growth in imports than in exports (Table 1.3). In 2013, the current account surplus was equivalent to 1.9% of GDP. A widening surplus in the services balance and a persistent net inflow of primary income more than offset the deficit in trade in goods in 2011-13.

1.17. The capital and financial accounts maintained a negative balance throughout the period. An overall net outflow of financial non-reserve assets was recorded in 2010-11, while a net inflow was recorded in 2012-13. Both direct investment and portfolio investment activities were quite dynamic during 2010-13, reflecting, on the one hand, the attractiveness of HKC to non-resident investors to set up companies in the territory, and on the other, its role as a major global financial centre. A net outflow of direct investment was recorded during the period, except in 2011. Foreign exchange reserves increased from US$269 billion in 2010 to US$311 in 2013, equivalent to 26.4 months of imports of goods (Table 1.1).

Table 1.3 Balance of payments, 2010-13

(HK$ million)

	2010	2011	2012	2013
Current account	124,369	107,513	32,151	39,517
Goods and services balance	104,353	74,478	23,031	18,065
Goods balance	25,564	-58,203	-146,729	-203,302
Exports	3,021,492	3,406,765	3,632,957	3,945,256
Imports	2,995,928	3,464,968	3,779,686	4,148,558
Services balance	78,789	132,681	169,760	221,367
Credit	625,719	710,716	764,026	817,948
Transport	231,971	250,075	248,494	242,995
Travel	172,472	221,490	256,534	301,969
Insurance and pension	6,664	6,610	7,224	8,390
Financial	101,639	111,910	120,680	128,942
Other	112,972	120,630	131,094	135,652
Debit	546,930	578,035	594,266	596,581
Transport	121,961	139,414	142,580	142,068
Travel	134,849	148,071	155,716	164,545
Insurance and pension	9,262	9,283	9,462	9,837
Financial	27,526	30,214	30,528	33,238
Other	253,333	251,052	255,980	246,893
of which: manufacturing	148,852	139,459	138,884	129,953
Primary income	37,596	52,826	29,455	42,170
Credit	929,741	1,059,351	1,091,235	1,127,680
Investment income	927,103	1,056,615	1,088,390	1,124,888

[8] The six industries were identified by the Task Force on Economic Challenges.

[9] Information provided by the authorities. In 2013, the HKC Government indicated that the development strategies for the medical and education sectors would be reviewed having regard to the need to address certain issues identified during the promotion of such industries, e.g. the manpower shortage in the medical sector and the need to meet local demand for medical and educational services.

	2010	2011	2012	2013
Compensation of employees	2,638	2,737	2,845	2,792
Debit	892,145	1,006,526	1,061,779	1,085,510
Investment income	888,393	1,002,210	1,057,069	1,080,341
Compensation of employees	3,752	4,315	4,710	5,169
Secondary income	-17,580	-19,791	-20,336	-20,718
Credit	4,449	6,858	7,021	9,890
General Government	0	0	0	0
Other sectors	4,449	6,858	7,021	9,890
Debit	22,030	26,649	27,357	30,608
General Government	2,086	1,873	1,871	1,988
Other sectors	19,944	24,776	25,486	28,620
Capital and financial account	-88,838	-113,242	-67,664	-40,452
Capital and financial non-reserve assets	-29,693	-26,458	121,224	17,437
Capital account	-4,436	-2,021	-1,433	-1,594
Financial account	-84,402	-111,220	-66,231	-38,858
Financial non-reserve assets	*-25,257*	*-24,437*	*122,658*	*19,032*
Direct investment	-122,026	1,868	-102,623	-115,542
Assets	-764,596	-746,372	-683,484	-709,906
Liabilities	642,570	748,240	580,861	594,364
Portfolio investment	-442,460	-10,979	-31,592	-333,625
Assets	-626,584	-155,818	-310,949	-471,693
Equity and investment fund shares	-365,079	-237,303	-159,624	-192,809
Debt securities	-261,506	81,485	-151,325	-278,884
Liabilities	184,125	144,839	279,358	138,069
Equity and investment fund shares	143,455	47,111	224,462	92,382
Debt securities	40,669	97,729	54,896	45,687
Financial derivatives	18,677	20,884	15,208	8,066
Other investment	520,552	-36,210	241,665	460,132
Reserve assets	-59,145	-86,783	-188,889	-57,890
Net errors and omission	-35,530	5,729	35,513	935
Balance of payments	59,145	86,783	188,889	57,890
Memorandum:				
Current account as % of GDP	7.0	5.6	1.6	1.9

Note: Figures for trade in goods and services are calculated according to conventional methodology, i.e. without adopting the new principle in recording goods sent abroad for processing and merchanting.

Source: Census and Statistics online information. Viewed at: http://www.censtatd.gov.hk.

1.2 Trade Performance

1.18. HKC is highly dependent on international trade, with exports and imports of goods and non-factor services representing more than 450% of GDP. In 2013, HKC ranked as the world's 6th largest exporter and the 5th largest importer of goods, and 6th largest exporter and the 13th importer of services.[10]

1.2.1 Merchandise trade[11]

1.19. Since its economy is markedly oriented towards the services sector, HKC continues to rely heavily on imports of goods to satisfy domestic consumption. This is reflected in a persistent deficit in the merchandise trade balance, although this has been more than compensated by a large surplus in the services trade balance. In 2013, total exports of goods (domestic exports and re-exports) amounted to US$458.9 billion, while total imports of goods were US$523.6 billion.

1.20. After a strong rebound in 2010 and the first part of 2011, total goods exports (domestic exports and re-exports) decelerated in the second half of 2011 and in 2012, owing mainly to slackening demand in developed economies, particularly the EU and the United States. In 2013, total goods exports increased moderately, by 2.8% in real terms, reflecting a tepid recovery in advanced economies and a slowdown in some major emerging markets. Imports of goods

[10] Counting the EU28 as one. WTO, *International Trade Statistics 2013*. Viewed at: http://www.wto.org/english/res_e/statis_e/its2013_e/its2013_e.pdf.

[11] Real growth figures in this section are based on: Government of the Hong Kong Special Administrative Region (2014). They do not necessarily coincide with the figures shown in GDP accounts in Table 1.1.

increased consistently throughout the period under review. In 2013, goods imports grew by 3.9% in real terms, due in part to a resilient domestic demand.

1.2.1.1 Composition of merchandise trade

1.21. Because HKC is a free port, and the largest free zone in the world, re-exports are the driving force of overall merchandise exports, representing about 98% of total exports of goods throughout the review period. This also points to the small size of the domestic production base. Import intake related to re-exports represents around three-quarters of total merchandise imports, while "retained imports" (i.e. for local use) account for the rest. Mainland China, the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu, and Japan are the main origins of re-exports.

1.22. In 2013, re-exports of goods rose by 3.0% in real terms. As regards product composition, machinery and electrical equipment remain by far the largest component of re-exports, followed by textiles and textile articles (Chart 1.1 and Table A1.1). Other main re-exports are precious stones and metals and pearls, precision instruments, and plastics and rubber.

1.23. Domestic exports decreased by 9.4% in real terms in 2013. The main domestic products exported include precious stones and metals and pearls, machinery and electrical equipment, plastics and rubber, prepared foodstuff, beverages and tobacco, chemicals and base metals (Chart 1.1 and Table A1.2). The share of precious stones and metals and pearls in total domestic exports increased notably between 2010 and 2013, mainly owing to a surge in foreign sales of non-monetary gold.

1.24. HKC's merchandise imports grew by 3.9% in real terms in 2013, with retained imports increasing by 6.3% in real terms. The composition of imports has remained largely unchanged since 2010. Machinery and electrical equipment account for the largest share, followed by precious stones and metals and pearls, precision instruments, textiles and textile articles, and mineral fuels (Chart 1.1 and Table A1.3). As regards retained imports, the most dynamic product groups in 2013 were capital goods and foodstuffs.[12]

1.2.1.2 Direction of merchandise trade

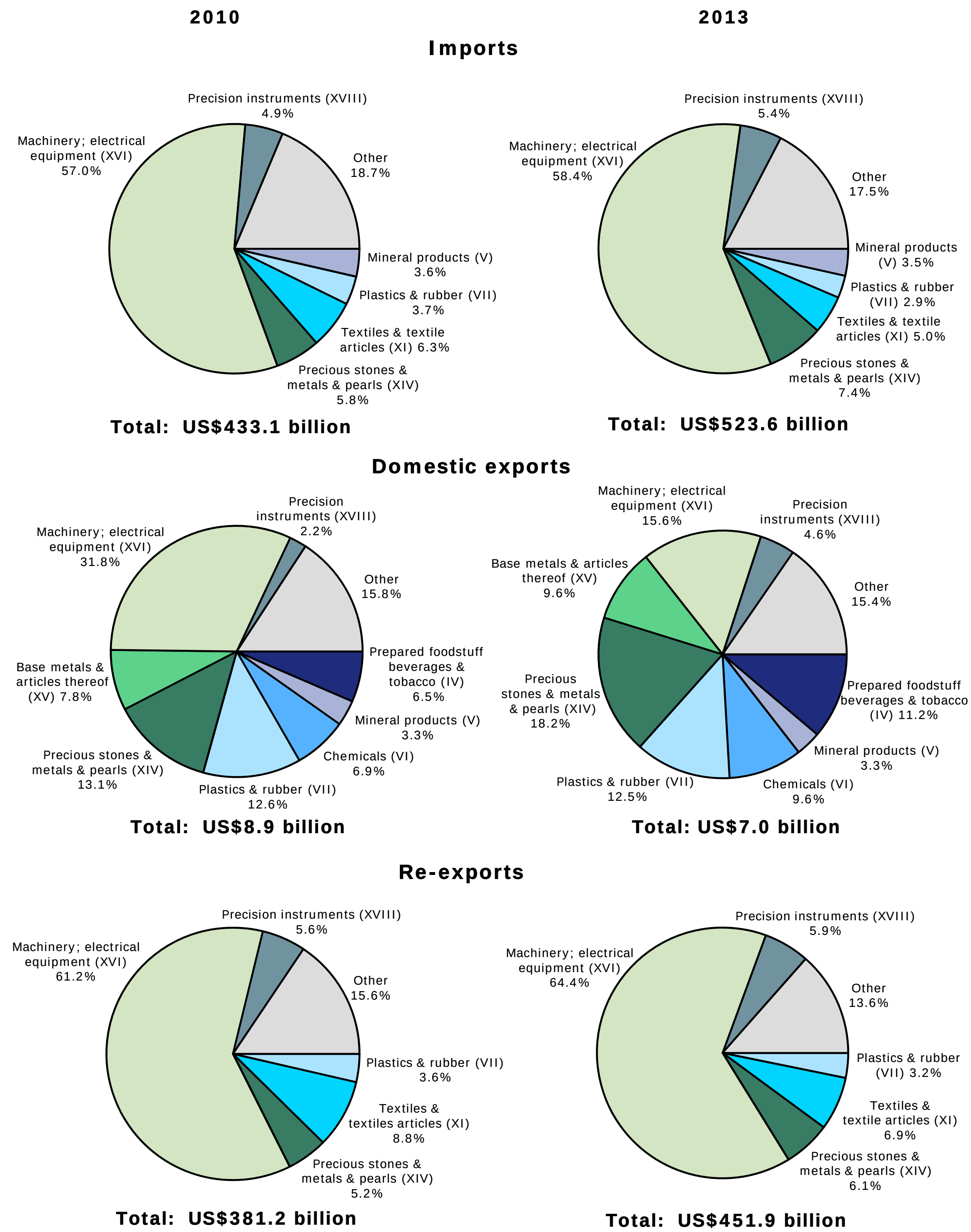
1.25. Mainland China is by far HKC's main trading partner. Based on its strategic geographical location and its modern transport and communications networks, HKC plays an important entrepôt role for trade between Mainland China and the rest of the world. In 2013, nearly 55% of HKC's re-exports were destined to the Mainland, and almost 48% of total HKC merchandise imports came from China. Mainland China also receives 45.6% of HKC domestic exports and is a major source of retained imports (13.6% of retained imports), in particular imports of foodstuffs (Chart 1.2 and Tables A1.4, A1.5 and A1.6). Total two-way trade between HKC and Mainland China amounted to almost US$502 billion in 2013, an increase of 24.6% over the 2010 figures (US$402.6 billion).

1.26. The United States, the European Union (EU28), and Japan are also important destination markets for HKC, although their respective shares in re-exports and domestic exports declined somewhat during the review period, owing in part to sluggish demand in those markets and, in the case of Japan, compounded by the effects of a weaker yen. In contrast, exports to other Asian countries increased moderately. The markets for domestic exports are more diversified, with several high-income East Asian countries accounting for around 15% of the total.

1.27. Mainland China accounts for almost half of HKC's imports. Other major suppliers of imported goods are the European Union, Japan, the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu, Singapore, the United States, and the Republic of Korea, which together account for 36.7% of total merchandise imports (Chart 1.2 and Table A1.6).

[12] Government of the Hong Kong Special Administrative Region (2014).

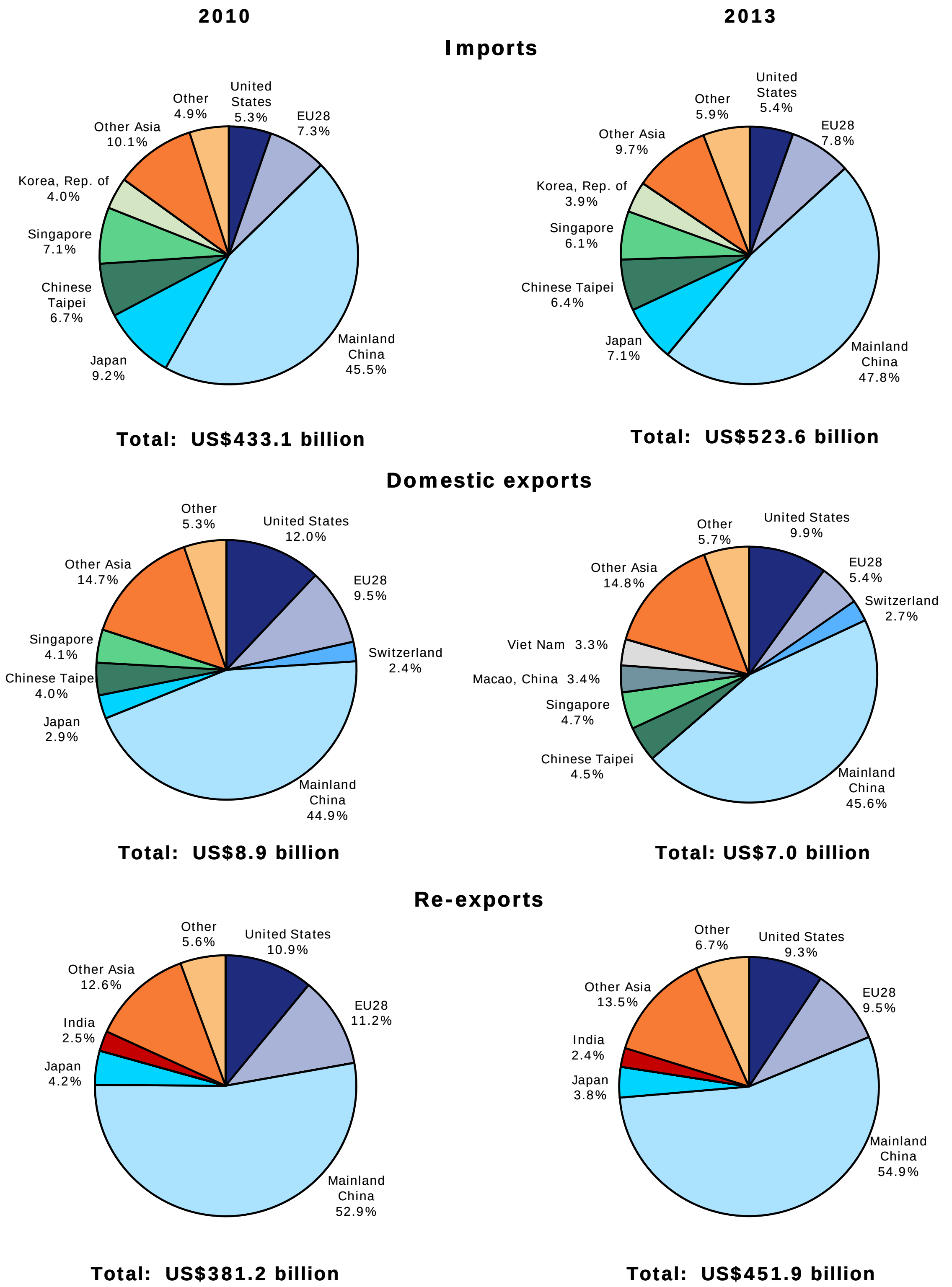
Chart 1.1 Product composition of merchandise trade by HS section, 2010 and 2013



Note: Data in brackets refer to the HS Section number.

Source: Data provided by the authorities.

Chart 1.2 Direction of merchandise trade, 2010 and 2013



Source: Data provided by the authorities.

1.2.2 Services trade[13]

1.28. Exports of services grew faster than merchandise exports during the review period. Based on balance-of-payments (BOP) data, services exports grew at an annual average rate of 9.3% between 2010 and 2013. They recorded very strong growth in 2010 and, to a lesser extent in 2011, on the back of rising inbound tourism and cross-border commercial and financial activity. However, they decelerated in 2012 affected by the fragile external environment, with exports of transportation and trade-related services being particularly hit by the slowdown in global merchandise trade. In 2013, services exports grew faster (5.8% in real terms), bolstered mainly by tourism, although exports of financial services and other business services also picked up together with an improvement in financial market and commercial activity. In contrast, exports of transportation and trade-related services (essentially offshore trade) remained weak, against the background of slackened international trade.

1.29. Imports of services grew at an annual average rate of 2.9% between 2010 and 2013, based on BOP figures. In 2013, they showed modest growth (1.5% in real terms), with imports of travel services growing faster, helped by improved income conditions and consumer sentiment, and a cheaper Japanese yen and other Asian currencies.

1.30. Reflecting its comparative advantage in the tertiary sector, HKC is a competitive exporter of services. According to BOP data, the main export services in 2013 were travel, transport, and financial services. The main groups of imported services were travel, transport, and manufacturing services (Table 1.4). "Other business services" have traditionally been an important subsector in both exports and imports of services.

Table 1.4 Composition of trade in services, 2010-13

(HK$ million and %)

	2010	2011	2012	2013
Total credit (HK$ million)	**625,719**	**710,716**	**764,026**	**817,948**
	% of total credit			
Manufacturing services	0.0[a]	0.0[a]	0.0[a]	0.0[a]
Maintenance and repair services	0.4	0.3	0.3	..
Transport	37.1	35.2	32.5	29.7
Travel	27.6	31.2	33.6	36.9
Construction	0.2	0.2	0.3	..
Insurance and pension services	1.1	0.9	0.9	1.0
Financial services	16.2	15.7	15.8	15.8
Charges for the use of intellectual property	0.5	0.5	0.5	..
Telecommunications, computer and information services	2.3	2.4	2.4	..
Other business services	14.1	13.0	13.0	..
Personal, cultural and recreational services	0.5	0.5	0.5	..
Government goods and services	0.1	0.1	0.1	..
Total debit (HK$ million)	**546,930**	**578,035**	**594,266**	**596,581**
	% of total debit			
Manufacturing services	27.2	24.1	23.4	21.8
Maintenance and repair services	0.1	0.1	0.1	..
Transport	22.3	24.1	24.0	23.8
Travel	24.7	25.6	26.2	27.6
Construction	0.1	0.1	0.4	..
Insurance and pension services	1.7	1.6	1.6	1.6
Financial services	5.0	5.2	5.1	5.6
Charges for the use of intellectual property	2.8	2.7	2.6	..

[13] This section is generally based on Government of the Hong Kong Special Administrative Region (2014).

	2010	2011	2012	2013
Telecommunications, computer and information services	1.6	1.7	1.9	..
Other business services	14.2	14.4	14.3	..
Personal, cultural and recreational services	0.1	0.1	0.1	..
Government goods and services	0.2	0.2	0.2	..

.. Not available.

a Denotes a % share of less than 0.05%.

Note: Figures for trade in goods and services are calculated according to conventional methodology, i.e. without adopting the new principle in recording goods sent abroad for processing and merchanting.

Source: Census and Statistics Department online information. Viewed at: http://www.censtatd.gov.hk.

1.3 Foreign Direct Investment

1.31. Foreign direct investment (FDI) is considered important for the economic growth and development of HKC. The territory's geographical location, its free port status, a business-friendly climate, the absence of restrictions on foreign investment in companies, and absence of foreign-exchange controls are among the main factors explaining HKC's attractiveness to foreign investors.

1.32. At the end of 2012[14], HKC's stock of direct investment liabilities totalled HK$10,509 billion (US$1,400 billion), equivalent to over five times its GDP, while the stock of direct investment assets amounted to HK$9,973 billion.[15] In 2012, HKC ranked as the third-largest recipient of FDI flows worldwide, and the second-largest in Asia, after Mainland China. HKC is also a major source of FDI, ranking fourth in world FDI outflows in 2012.[16]

1.33. Mainland China remains the principal source of FDI, providing 37.0% of the total stock of inward direct investment at the end of 2012. It is closely followed by the British Virgin Islands (32.7%). Other important sources are the Netherlands, Bermuda, and the United States. Inward direct investment from the British Virgin Islands and Bermuda may reflect in part the practice of HKC enterprises establishing non-operating companies in financial centres to re-channel FDI back to HKC. As regards outward direct investment, Mainland China is also one of the main recipients of HKC overseas investment, accounting for 40.7% of the total stock of outward direct investment at the end of 2012, with the largest recipient being the British Virgin Islands (Table A1.7). In terms of direct investment flows, Mainland China accounted for 42.8% of total inflows and 45.9% of total outflows in 2012.[17]

1.34. Analysed by economic activity, both inward and outward direct investment are concentrated in the services sector and, in particular, in the activities classified as "investment and holding, real estate, professional and business services", which accounted for 69% and 78% of total inward and outward direct investment, respectively at the end of 2012. Other major recipients of inward direct investment at the end of 2012 were banking (11.1%) and import/export, wholesale and retail trades (9.2%); these two subsectors were also important as destinations for outward direct investment, along with manufacturing and insurance (Table A1.8).

[14] Data for 2013 were not available at the time of writing this report.

[15] Figures provided by the HKC authorities. Aggregate direct investment statistics are compiled based on the asset/liability principle according to the standards stipulated in the IMF's Sixth Edition of the *Balance of Payments and International Investment Position Manual*. They are different from the figures for total inward/outward stock by countries/territories and for total inward/outward stock by economic activity shown in Tables A1.7 and A1.8 of this report, due to different presentation principles.

[16] Data on rankings are based on UNCTAD (2013).

[17] HKC Census and Statistics Department online information. Viewed at: http://www.censtatd.gov.hk/hkstat/sub/sp260.jsp (Tables 48 and 50).

2 TRADE AND INVESTMENT REGIME

2.1 General Constitutional and Legal Framework

2.1. Hong Kong, China (HKC) became a Special Administrative Region of the People's Republic of China on 1 July 1997. The Basic Law[1] guarantees HKC "…a high degree of autonomy, with executive, legislative and independent judicial powers, including that of final adjudication".[2] In accordance with the Basic Law, HKC maintains an independent taxation system, and retains its status as a free port and a separate customs territory setting its own trade and investment policies. The Hong Kong dollar remains the legal currency. There have been no significant changes in the constitutional and legal framework of HKC since its last Trade Policy Review in 2010.

2.2. The Chief Executive, as head of the HKC Government, has policy-making and executive powers. The Chief Executive appoints the Executive Council of 29 members to assist with policy-making.[3] The Government, the executive body of HKC, is responsible for policy formulation and implementation, as well as carrying out other administrative affairs and maintaining external relations as authorized by the Central People's Government of China under the Basic Law. The Legislative Council is the legislative organ, responsible for general law-making. Laws passed by the Legislative Council take effect after being signed and promulgated by the Chief Executive.[4]

2.3. The courts exercise judicial power independently. Court judges are appointed by the Chief Executive on the recommendation of an independent commission. The courts, through the Court of Final Appeal, must seek interpretation of relevant provisions of the Basic Law from the Standing Committee of the National People's Congress of China when handling cases concerning affairs that are the responsibility of the Central People's Government of China or concerning the relationship between the central authorities and HKC, and if such interpretation will affect the judgement.[5] As of date, the Court of Final Appeal had once sought interpretation of Basic Law provisions in relation to the immunity of foreign states.[6]

2.4. In descending order of importance, the Basic Law is followed by ordinances, and their subsidiary regulations and notices. The main legislation on international trade remains the Import and Export Ordinance (Chapter 60 of the Hong Kong Laws). The Ordinance and its subsidiary legislation lay out the principles of foreign trade and procedures for import, export, and transit of goods to/from HKC. The authorities maintain a public database with all its legislation in a bilingual format on the website of the Department of Justice.[7]

2.5. A free-trade agreement between HKC and its trading partners need not be subject to ratification by the legislature before the agreement enters into force. However, when legislative means are required in order to implement provisions in the free-trade agreement (e.g. introduction of new legislation, or amendment of existing legislation), the usual legislative procedures will be followed.

2.2 Trade Policy Objectives

2.6. Since its previous Trade Policy Review, HKC's overall trade policy objectives have not changed. These objectives include: to promote a free, open, and stable multilateral trading system; to safeguard its rights and fulfil its obligations under multilateral, regional, and bilateral

[1] The Constitution of China and the Basic Law together form the constitutional framework of HKC.
[2] Article 2 of the Basic Law. Viewed at: http://www.basiclaw.gov.hk/en/basiclawtext/chapter_1.html.
[3] Except for the appointment, removal, and disciplining of officials and the adoption of measures in emergencies, the Chief Executive consults the Executive Council before making important policy decisions, introducing bills to the Legislative Council, making subordinate legislation, or dissolving the Legislative Council. At present, the membership of the Executive Council comprises 15 appointed Principal Officials and 14 non-officials.
[4] Articles 49 to 51 of the Basic Law lay out the provisions for the situations when disagreements occur between the Chief Executive and the Legislative Council.
[5] Article 158 of the Basic Law. Viewed at: http://www.basiclaw.gov.hk/en/basiclawtext/chapter_8.html.
[6] Government online information, "The Basic Law". For details, see Instruments 17, 18, 20 and 22. Viewed at: http://www.basiclaw.gov.hk/en/basiclawtext/index.html.
[7] Department of Justice online information, "Bilingual Laws Information System". Viewed at: http://www.legislation.gov.hk/blis/eng/index.html.

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.

2.7. As a separate customs territory, HKC may, on its own, maintain and develop relations and conclude and implement agreements with foreign states and regions/territories in the fields of economics, trade, financial and monetary issues, shipping, communications, tourism, cultural activities, science and technology, and sports.[8] HKC maintains a separate status under the name *Hong Kong, China* in 41 international organizations.

2.8. In addition, HKC participates in other multilateral agreements in two ways: in those to which China is a party and its application is extended to HKC, and in those agreements that HKC had implemented before the Handover but to which China is not a party.[9] Currently, about 250 multilateral agreements are applicable to HKC, covering, *inter alia*, customs, civil aviation, shipping, health, and intellectual property.[10]

2.9. Trade and investment policies are formulated by the Secretary for Commerce and Economic Development.[11] The Secretary is assisted by a number of bodies and funds, including the Trade and Industry Department, the Innovation and Technology Commission, the Intellectual Property Department, the Office of Communications Authorities, and Invest Hong Kong. The Secretary is also supported by a worldwide network of HKC Economic and Trade Offices. When formulating major trade policies/measures, the Government will launch a public consultation exercise.[12]

2.10. The Trade and Industry Department (TID) is the main agency responsible for maintaining HKC's external commercial relations. Its functions include implementing trade policies and agreements; issuing certificates of origin, export and import licences and the Hong Kong Service Supplier (HKSS) certificate; as well as providing general support services for the industrial sector and small and medium-size enterprises (SMEs). A number of statutory bodies are also involved in promoting trade and industry, including the Hong Kong Trade Development Council (HKTDC), the Hong Kong Export Credit Insurance Corporation (ECIC), the Hong Kong Productivity Council, and the Hong Kong Science and Technology Parks Corporation (HKSTPC).

2.3 Trade Agreements and Arrangements

2.3.1 WTO

2.11. HKC is a very open economy, and a firm supporter of the multilateral trading system.[13] As an original Member of the WTO, Hong Kong, China continues its active participation as a separate customs territory to secure maximum market access for its exports of goods and services to international markets.[14] HKC is a signatory of the revised WTO plurilateral Agreement on Government Procurement (GPA), and the Information Technology Agreement (ITA), and is currently engaged in the plurilateral negotiation on environmental goods.

2.12. HKC was the first Member to notify the WTO that it would implement all provisions contained in Articles 1 to 12 of the Agreement on Trade Facilitation upon its entry into force, without using any of the flexibilities provided in the Agreement.[15]

2.13. HKC has an excellent record of providing notifications to the WTO. At the end of May 2014, there was no outstanding requirement for regular notifications from HKC (Table A2.1).

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[8] Article 151 of the Basic Law.

[9] Article 153 of the Basic Law.

[10] For details see Department of Justice online information, "List of Treaties in Force and Applicable to the Hong Kong Special Administrative Region". Viewed at: http://www.doj.gov.hk/eng/laws/interlaw.html.

[11] The Secretary is nominated by the Chief Executive and appointed by the Central People's Government of China.

[12] Government online information, "Government Information and Publication". Viewed at: http://www.gov.hk/en/residents/government/publication/?/consultation/.

[13] WTO document WT/MIN(13)/ST/26, 5 December 2013.

[14] Commerce and Economic Development Bureau online information, "2013 Policy Address at the Legislative Council Panel on Commerce and Industry". Viewed at: http://www.cedb.gov.hk/about/citb.pdf.

[15] WTO document WT/PCTF/N/HKG/1, 13 May 2014.

2.14. During the period under review, HKC was not involved in any WTO dispute settlement cases either as a complainant or a respondent; HKC participated as a third party in three cases, all of which were related to tariff treatment on ITA products.[16]

2.3.2 Regional and preferential trade agreements

2.15. Since its last TPR in 2010, HKC has been active in forging free-trade arrangements (FTAs) with its trading partners, with the aim of securing more favourable market access for its goods and services.[17] The HKC authorities state that, in general, they maintain an open mind on bilateral, plurilateral, and regional free-trade initiatives and are prepared to explore the possibility of entering into FTAs with other economies, so long as the agreements are in HKC's interests, are consistent with WTO principles and provisions, and can contribute to multilateral trade liberalization.

2.16. Within the review period, two free-trade arrangements involving HKC entered into force: the Closer Economic Partnership Agreement (CEP Agreement) with New Zealand (effective 1 January 2011)[18], and the comprehensive Free Trade Agreement with the European Free Trade Association (EFTA) member states (effective 1 October 2012 with Iceland, Liechtenstein, and Switzerland, and 1 November 2012 with Norway).[19] In addition, HKC signed a free-trade agreement with Chile in September 2012, which will enter into force after both parties complete domestic ratification procedures.[20] In the meantime, HKC has continued to deepen integration with Mainland China in the framework of their Closer Economic Partnership Arrangement (CEPA): four supplements to CEPA were signed between 2010 and 2013.[21]

2.17. In the free-trade arrangements in which it takes part, HKC has bound its tariff-free regime and agreed to substantial sectoral coverage and liberalization in services, notably through the use of a negative-list approach in some of them. The agreements also cover other areas, including government procurement, intellectual property, trade facilitation, and recognition of qualifications.

2.18. In November 2011, HKC submitted a request to ASEAN join the Free Trade Area between China and ASEAN (CAFTA); in April 2013, HKC and ASEAN agreed to pursue a separate free-trade agreement instead. Public consultation documents for these negotiations were published on the TID website in May 2014.[22]

2.3.2.1 Closer Economic Partnership Agreement with New Zealand

2.19. The CEP Agreement binds tariffs at zero for all goods originating from New Zealand; upon its entry into force[23], it provided duty-free treatment for 63.4% of New Zealand's tariff lines for goods originating from HKC. The remaining tariff duties for products of Hong Kong origin will be removed gradually until 2016. As of early 2014, 7,143 lines (98% of total lines in the New Zealand schedule) were duty-free for Hong Kong-origin goods. The remaining lines affect products such as textiles, clothing, and footwear.

2.20. The CEP Agreement covers trade in services with a negative-list approach for services in modes 1 to 3, while a positive list is provided for services in mode 4. New Zealand liberalized all its business, communication, financial, and transport services, with reservations in certain subsectors, including a "GATS-floor" reservation. In terms of horizontal commitments, New Zealand has made a number of reservations, some of which coincide with its GATS commitments, while others do not.[24] HKC opened almost all of the 46 subsectors of business services; most of the 24 subsectors

[16] WT/DS375, WT/DS376, and WT/DS377.

[17] Commerce and Economic Development Bureau online information, "2013 Policy Address at the Legislative Council Panel on Commerce and Industry". Viewed at: http://www.cedb.gov.hk/about/citb.pdf.

[18] WTO document WT/REG291/N/1, 7 January 2011.

[19] WTO document WT/REG322/N/1, 1 October 2012.

[20] Trade and Industry Department online information, "Trade Relations". Viewed at: http://www.tid.gov.hk/english/trade_relations/hkclfta/index.html.

[21] Trade and Industry Department online information, "CEPA". Viewed at: http://www.tid.gov.hk/english/cepa/legaltext/cepa_legaltext.html.

[22] Trade and Industry Department online information, "Notice Board". Viewed at: http://www.tid.gov.hk/english/aboutus/noticeboard/asean_agreement.html.

[23] 57.7% of tariff lines in New Zealand are already duty-free on an MFN basis.

[24] WTO document WT/REG291/1/Rev.1, 26 March 2012.

in communication services; 5 subsectors in construction services; transport; and tourism, with a "GATS-floor" reservation or a "GATS + offer floor" reservation in certain subsectors (e.g. telecommunications). The liberalization of financial services by HKC coincides with its GATS commitments and its offer under the Doha Development Agenda. HKC offered New Zealand further liberalization in distribution, education, and environmental services, which are not covered by its GATS commitments.

2.21. Under the CEP Agreement, HKC offered New Zealand similar coverage to that in its GPA commitments (New Zealand is not a signatory to the GPA)[25], while New Zealand scheduled 30 public services departments as subject to its commitments under the CEP.[26]

2.22. In addition, the CEP Agreement has provisions on non-tariff measures, including customs procedures and cooperation, sanitary and phytosanitary (SPS) measures, and technical barriers to trade. Both parties to the agreement may accredit or recognize the other's conformity assessment bodies on terms no less favourable than those accorded to their own conformity assessment bodies. The agreement also covers competition, e-commerce, and intellectual property, among others.

2.3.2.2 Free Trade Agreement with EFTA

2.23. The free-trade agreement between HKC and the EFTA member states covers, *inter alia,* trade in goods, trade in services, investment, government procurement, and intellectual property protection.[27] In addition, three bilateral agreements on agriculture (i.e. between HKC on one side, and Iceland, Norway, and Switzerland/Liechtenstein, on the other side) form an integral part of the instruments establishing a free-trade area between HKC and the EFTA member states.[28]

2.24. HKC bound tariffs at zero on all imported goods originating from the EFTA member states. All industrial goods as well as fish and certain marine products originating from HKC receive duty-free treatment when entering EFTA markets, with certain exceptions.[29]

2.25. HKC eliminated all tariffs on agricultural products, upon entry into force of the FTA. Each EFTA member eliminated tariffs only on products identified by them in the respective bilateral agreements on agriculture. As a result, the level of tariff elimination in the agriculture sector by EFTA member states is modest: 551 tariff lines (mainly on agricultural goods) remain dutiable in Iceland; 1,133 in Norway; and 1,503 in Switzerland/Liechtenstein.[30] At a meeting of the WTO Committee on Regional Trade Agreements, one Member noted the low level of tariff elimination in agriculture under this arrangement.[31]

2.26. A negative-list approach is adopted for the commitments on trade in services; therefore, all service sectors are deemed to be liberalized except those under reservations. HKC has access to EFTA member states' markets for, *inter alia*, telecommunications services, financial services, business services, education services, environmental services, and testing and certification services. Meanwhile, several services, including financial services, telecommunications, logistics services, business services, energy services, tourism and travel related services, and construction and related engineering services are liberalized for the EFTA member states. Commitments by the parties are similar to, or go beyond their respective GATS commitments.[32] EFTA member states maintain some specific horizontal limitations, generally on market access and/or national

[25] HKC did not commit five Annex-3 entities in its GPA commitments to New Zealand.
[26] According to the New Zealand authorities, these commitments are the same as its Trans-Pacific Strategic Economic Partnership (SEP) Agreement commitments, and exclude procurement of public education, health, welfare, and research and development services. See WTO document WT/REG291/1/Rev.1, page 35, 26 March 2012.
[27] The Norwegian territory of Svalbard is excluded from the provisions of the agreement except for those on trade in goods.
[28] WTO document WT/REG322/M/1, 4 October 2013.
[29] For industrial goods, the exceptions apply for Norway, and/or Liechtenstein, and/or Switzerland (depending on the products) to certain chemicals under HS headings 35.01, 35.02, 35.05, 38.09, and 38.23.
[30] This includes tariff quotas on 25 lines in the Agreement on Agriculture with Switzerland.
[31] WTO document WT/REG322/M/1, 4 October 2013.
[32] For details see WTO document WT/REG322/1, 9 July 2013.

treatment, in addition to their MFN reservations under the GATS.[33] For instance, EFTA member states impose a limitation on HKC's acquisition of real estate.

2.3.2.3 Free Trade Agreement with Chile

2.27. The FTA with Chile was signed in September 2012, but was not yet in effect at the time of writing this report. Upon its entry into force, 88% of lines in the Chilean tariff schedule will be duty free for imports originating from HKC. Chile will eliminate tariffs on another 10% of lines within three years of the application of the Agreement. Some 2% of tariff lines will remain dutiable for Hong Kong-origin imports, affecting products such as cereals, sugar, and iron and steel articles.

2.28. With regard to trade in services, a positive-list approach is adopted in the FTA with Chile. HKC gains market access to Chile's financial services, telecommunications, tourism, environmental services, and certain business services; while HKC liberalizes sectors/subsectors where Chile has priority interests, such as architectural services, engineering services, audiovisual services, and construction services.

2.29. Chile is not a party to the GPA. In the FTA, HKC offers Chilean suppliers a concession similar to its GPA commitments.[34]

2.3.2.4 Closer Economic Partnership Arrangement (CEPA) with Mainland China

2.30. CEPA covers three broad areas: trade in goods, trade in services, and trade and investment facilitation.[35] During the period under review, four supplements to CEPA were signed and entered into force.[36] These provide HKC with further liberalized trade in goods and services in Mainland China as well as other measures covering trade and investment facilitation. In particular, Supplement VIII to CEPA provides for the enhancement of origin criteria for goods originating in HKC, and, in trade in services, a more relaxed definition of "Hong Kong Service Suppliers" (HKSS) and related requirements.

2.31. Under CEPA provisions for trade in goods, products originating in HKC may enter the Chinese market with a zero-tariff preference.[37] The rules of origin to determine whether a product originates in HKC are the result of consultations between the relevant authorities of Mainland China and HKC, which are held twice a year. At end 2013, the parties had negotiated rules of origin covering about 22% of China's tariff lines (1,788 lines), accounting for 69% of HKC's domestic exports to Mainland China in 2013. In order to benefit from the preference, a Certificate of Hong Kong Origin for CEPA (CO-CEPA) must accompany the shipment.

2.32. As a general rule, at least 30% of a product's total value added must be incurred in HKC in order to claim HKC origin and preferences. In December 2011, Supplement VIII to CEPA lowered this value-added criterion to 15%, provided that the difference is made up with the value of raw materials and components originating from Mainland China.

2.33. HKC's use of CEPA preferences for goods exports gradually increased during the review period, accounting for nearly 39% of the value of total domestic exports to Mainland China in 2013 (Table 2.1). Between 2010 and 2013, plastics and plastic articles accounted for the largest share of CEPA preferential exports to Mainland China in terms of export value (36.7%), followed by pharmaceutical products (24.1%), and textiles and clothing (9.9%).

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[33] According to the parties to the FTA, reservations in Liechtenstein are the same as in the GATS, but adjusted to the negative-list approach; there is no difference in content. See WTO document WT/REG322/1, page 30, 9 July 2013.

[34] HKC did not commit five Annex-3 entities in its GPA commitments to Chile.

[35] WTO document WT/TPR/S/241/Rev.1, 25 January 2011.

[36] WTO documents WT/REG162/N/1/Add.4, 3 December 2010; WT/REG162/N/1/Add.5, 5 March 2012; WT/REG/162/N/1/Add.6, 17 September 2012; WT/REG/162/N/1/Add.7, 13 November 2013. See also Trade and Industry Department online information, "CEPA". Viewed at: http://www.tid.gov.hk/english/cepa/legaltext/cepa_legaltext.html.

[37] The CEPA rules of origin basically include changes of HS headings, value-added thresholds, and major processing operations. Products covered by the CEPA rules of origin are included on a consolidated list, which is amended every six months after consultations with the stakeholders of both parties.

Table 2.1 CEPA preference utilization rates, 2009-13

	Export value of CO-CEPA products (HK$ million)	Export value of CO-CEPA products as a %age of total domestic exports to China	CEPA preference utilization rate[a]
2009	5,447	20.4	32.5
2010	7,158	22.9	33.9
2011	8,870	28.9	47.8
2012	9,676	37.2	54.8
2013	9,635	38.9	56.1

a Export value of CO-CEPA products as a percentage of total domestic exports to Mainland China with agreed rules of origin.

Source: Information provided by the HKC authorities.

2.34. Under CEPA provisions for trade in services, Hong Kong service suppliers (HKSS) enjoy preferential access to the Chinese market. To be qualified as an HKSS, any business that provides services in the form of a juridical person must have "substantive business operations" in HKC.[38] Supplement VIII amended the definition of HKSS and relaxed the requirements for "substantive business operations". After the amendment, an HKSS that applies to Mainland China for CEPA preferences for service activities is no longer restricted to the scope of its business operations in HKC, except as otherwise provided for in individual regulations or the CEPA provisions. The HKSS certificate is issued by the Trade and Industry Department, and is a pre-requisite for applying to the Chinese authorities for CEPA preferential treatment. As of end-May 2014, 2,800 HKSS certificates had been issued, up from 2,233 in May 2010. Service sectors with most certificates issued include transport and logistics, distribution services, placement services, and advertizing services. CEPA is "nationality blind" as it allows Hong Kong-based companies of any nationality to use preferential access opportunities to Mainland China. The authorities note that almost half of the HKSS certificates have been issued to companies with majority foreign ownership, including service providers from HKC's FTA partners.

2.35. Liberalization in services trade under CEPA is based on a positive-list approach, covering modes 1 to 4, depending on the sector/subsector. Through a series of supplements to CEPA, the scope of liberalization of services trade has been further broadened. The entry into force of Supplement X to CEPA, on 1 January 2014, took the number of services trade liberalization measures to 403, covering 48 sectors/subsectors (Table 2.2).

Table 2.2 Services sectors or subsectors covered under CEPA, January 2014

Services	Services
1. Accounting	25. Other business services (1) Specialty design; (2) Factoring; (3) After-death services facilities
2. Advertizing	26. Patent agency
3. Air Transport	27. Photographic
4. Audiovisual (1) Video and sound recording products; (2) Cinema theatre services, Chinese language motion pictures and motion pictures jointly produced, motion picture distribution services; (3) Jointly produced television dramas; (4) Technical service of cable television; (5) Mainland television dramas with Hong Kong participation	28. Placement and supply services of personnel (1) Job intermediary services; (2) Job referral agency services
5. Banking	29. Printing (1) Printing services; (2) Duplicating services
6. Building-cleaning	30. Public utility

[38] The definition and criteria for qualifying as an HKSS are provided in Annex V to CEPA, which include: having substantive business operations (i.e. three to five years of operation in HKC, depending on the sector); liability to payment of profit tax in HKC; rental or ownership of business premises; and employment of 50% of the staff locally. Viewed at: http://www.tid.gov.hk/english/cepa/legaltext/consolidated.html.

Services	Services
7. Computer and related services (1) Computer and related services; (2) Information technology services	31. Rail transport
8. Construction and related engineering (1) Construction and related engineering services; (2) Architectural services; (3) Urban planning and landscape architectural services (except general urban planning); (4) Construction engineering cost consulting services; (5) Engineering services; (6) Integrated Engineering services	32. Real estate
9. Convention and exhibition	33. Related scientific and technical consulting services
10. Cultural	34. Research and development
11. Distribution (1) Distribution services; (2) Franchising	35. Road transport (1) Road freight transportation services; (2) Road passenger transportation services
12. Education	36. Securities and futures
13. Environmental	37. Services incidental to manufacturing
14. Freight forwarding agency	38. Services incidental to mining
15. Individually-owned stores	39. Services related to management consulting
16. Insurance	40. Social Services
17. Inter-disciplinary research and experimental development devices	41. Sporting
18. Legal	42. Storage and warehousing
19. Library, museum and other cultural services	43. Technical testing, analysis and product testing
20. Logistics	44. Telecommunications
21. Management consulting	45. Tourism (1) Hotels (including apartment buildings) and restaurants; (2) Travel agency and tour operators
22. Maritime transport	46. Trade mark agency
23. Market research	47. Translation and interpretation
24. Medical	48. Examinations for professional and technical qualification

Source: Trade and Industry Department online information, "CEPA". Viewed at: http://www.tid.gov.hk/english/cepa/legaltext/TIS_Liberalization.html.

2.36. A feature of CEPA is the liberalization of services trade through pilot measures, first introduced in the neighbouring province of Guangdong in Mainland China with the aim, *inter alia*, of serving as role models for further liberalization nationwide in Mainland China.

2.37. CEPA also covers trade and investment facilitation. Measures include establishing a mechanism to strengthen cooperation between the parties in a number of areas, including 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.[39]

2.38. Government procurement and competition policy are not covered under CEPA.

2.3.3 Other agreements and arrangements

2.39. HKC has been a member of the Asia-Pacific Economic Cooperation (APEC) forum since 1991. In 2013, 84.6% of merchandise imports into HKC were from APEC Members, and 81.4% of its merchandise exports went to them. In the 20th Meeting of APEC Ministers responsible for trade

[39] Trade and Industry Department online information, "CEPA –Summary of Trade and Investment Facilitation". Viewed at: http://www.tid.gov.hk/english/cepa/facilitation/summary_invest.html.

(MRTs) in May 2014, the HKC Government reaffirmed, together with other APEC MRTs, its support to the multilateral trading system, and its efforts for striking further regional integration.[40]

2.40. HKC is involved in the negotiation of the plurilateral Trade in Services Agreement (TISA). It considers TISA an effective platform to take services negotiations forward. The authorities note that HKC shares the goal of TISA participants to multilateralize the outcomes of the negotiations eventually, and to bring the agreement back to the WTO as a building block for multilateral services liberalization for the entire WTO membership.

2.41. HKC is a beneficiary of non-reciprocal tariff preference schemes operated by Canada and the Russian Federation. It appears that HKC's trade covered under these schemes is very small. In 2013, there were no HKC exports under the GSP of the Russian Federation. HKC's entitlement to benefits under Canada's General Preferential Tariff scheme will be discontinued with effect from 1 January 2015.

2.4 Investment Regime

2.42. Under the Basic Law, HKC does not maintain any restriction on investment, capital flows, and foreign exchange.[41] All service sectors are open to foreign investment, and foreign services providers and foreign investors generally receive national treatment, except for (limited) regulatory requirements on investment in the banking (section 4.5.2)[42] and broadcasting sectors, which, according to the authorities, are aligned with international standards. There are no minimum capital requirements for investments.

2.43. With the aim of modernizing company law and further enhancing the role of HKC as a major international business and financial centre, the Companies Ordinance was re-written and approved by the legislature in July 2012; the legislation (Chapter 622) entered into force in March 2014. The new Companies Ordinance provides a number of measures for facilitating business operations, including streamlined procedures and the simplification of companies' reporting obligations, in particular for SMEs. The Ordinance also has provisions to enhance corporate governance to ensure better regulation, such as provisions for improving company information disclosure and shareholder protection.[43]

2.44. Another distinctive feature of the new legislation is the introduction of a mandatory no-par regime for all companies with share capital. The abolition of par value for shares is expected to solve practical problems such as inhibiting the raising of new capital and unnecessarily complicating the accounting regime. The capital duty levied on local companies was abolished in June 2012. Under the no-par regime, it is no longer necessary for new companies to pay capital duty or for companies to pay capital duty when they increase their share capital.

2.45. A company operating in HKC must be incorporated locally or registered as a non-Hong Kong company.[44] Company incorporation and/or registration are handled by the Companies Registry (CR). The CR administers the Companies Ordinance (Chapter 622) and other relevant legislation. The CR maintains an Index of Company Names for public information. Incorporation or registration of a company in HKC is quick and simple. In 2013, it took 4 working days for incorporation of local companies and 14 working days for registration of non-Hong Kong companies. Incorporation will take less than one hour if done through e-submission facilities.[45]

2.46. All businesses are required to register with the Business Registration Office of the Inland Revenue Department. For a business in the form of a company, through the one-stop company and business registration service jointly implemented by the CR and the Inland Revenue

[40] Asia-Pacific Economic Cooperation online information. Viewed at: http://www.apec.org/Meeting-Papers/Ministerial-Statements/Trade/2014_trade.aspx.

[41] Chapter V of the Basic Law. Viewed at: http://www.basiclaw.gov.hk/en/basiclawtext/chapter_5.html.

[42] See Monetary Authority Guide to Authorization. Viewed at: http://www.hkma.gov.hk/eng/key-functions/banking-stability/guide-authorization.shtm.

[43] Company Registry online information, "New Companies Ordinance – Overview". Viewed at: http://www.cr.gov.hk/en/companies_ordinance/overview.htm.

[44] Non-Hong Kong companies refer to companies incorporated outside HKC but that have established a place of business in HKC.

[45] Companies Registry online information, "Performance Pledges". Viewed at: http://www.cr.gov.hk/en/about/performance.htm.

Department, the CR will issue a Certificate of Incorporation/Registration and the Business Registration Certificate at the same time, upon approval of an application for incorporation/registration. Businesses in sectors requiring specific licences must acquire these from the relevant authorities before commencing business operations.[46] These sectors include restaurants, karaokes, travel agencies, employment agencies, banks, fund managers, and insurance brokers.

2.47. Invest Hong Kong is the Government agency responsible for promoting and retaining foreign direct investment from overseas. It offers facilitation services and sector-specific advice to support companies throughout the investment process, and provides aftercare support services to companies already established in HKC.[47]

2.48. A new Arbitration Ordinance (Chapter 609) entered into force in June 2011. This Ordinance creates a single regime for all types of arbitration on the basis of the Model Law on International Commercial Arbitration of the United Nations Commission on International Trade Law (UNCITRAL), replacing the old regimes, which differentiate between domestic and international arbitration. In July 2013, the Arbitration Ordinance was amended to introduce provisions for the judicial enforcement of emergency relief granted by an emergency arbitrator before an arbitral tribunal is constituted.[48]

2.49. During the review period, HKC's taxation regime remained largely unchanged. The system is based on territoriality, i.e. only income/profit sourced locally is subject to tax, and income derived from a source outside HKC by a local resident is not taxed in most cases. According to the authorities, businesses operating in HKC do not generally have problems with double taxation of income.[49] Nevertheless, HKC pursues comprehensive double taxation agreements/arrangement (DTAs) with its trading partners, with the aim of providing certainty to investors. As of end-May 2014, HKC had signed DTAs with 29 jurisdictions, most of which were signed between January 2010 and January 2014.[50] Furthermore, HKC is able to enter into tax information exchange agreements with other jurisdictions, following the passage of relevant legislative amendments in July 2013.

2.50. HKC considers investment promotion and protection agreements (IPPAs) as a means to attract foreign investment and to enhance protection of HKC's outbound investment. As of June 2014, HKC had signed 17 IPPAs, with Australia; Austria; Belgo-Luxembourg Economic Union; Denmark; France; Finland; Germany; Italy; Japan; Korea, Rep. of; Kuwait, the State of; the Netherlands; New Zealand; Sweden; Switzerland; Thailand; and the United Kingdom. In December 2013, HKC concluded IPPA negotiations with the Kingdom of Bahrain and Myanmar.[51] HKC will start negotiations on an investment agreement with Chile upon the entry into force of the HKC-Chile FTA.[52]

[46] Business Licence Information Services. Viewed at: https://www.success.tid.gov.hk/tid/eng/blics/index.jsp#.

[47] For details, see InvestHK online information, "How we can help". Viewed at: http://www.investhk.gov.hk/how-we-can-help.html.

[48] Arbitration (Amendment) Ordinance 2013. The amendment also introduced provisions to implement the Arrangement Concerning Reciprocal Recognition and Enforcement of Arbitral Awards between the Hong Kong Special Administrative Region and the Macau Special Administrative Region concluded in January 2013.

[49] Inland Revenue Department online information, "Double Taxation Relief". Viewed at: http://www.ird.gov.hk/eng/pol/dta.htm.

[50] Inland Revenue Department online information. Viewed at: http://www.ird.gov.hk/eng/tax/dta_inc.htm.

[51] Signature of these IPPAs awaits the completion of the necessary internal procedures by the parties.

[52] Commerce and Economic Development Bureau online information, "2013 Policy Address at the Legislative Council Panel on Commerce and Industry". Viewed at: http://www.cedb.gov.hk/about/citb.pdf.

3 TRADE POLICIES AND PRACTICES BY MEASURE

3.1 Overview

3.1. Procedures in Hong Kong, China (HKC) for trading across borders are amongst the easiest and fastest worldwide. Practically all customs declaration procedures are done electronically through the services of government-appointed private service providers. During the period under review, HKC implemented a number of measures to facilitate trade and strengthen its role as a regional transit hub, including the official introduction of an authorized economic operator programme, an intermodal transhipment facilitation scheme, and the reduction of customs declaration fees. Moreover, HKC has committed to implementing all measures laid out in the WTO Agreement on Trade Facilitation upon its entry into force without using any flexibilities provided in the Agreement.

3.2. HKC remains one of the most open economies with very few trade and investment restrictions. All applied tariffs are zero, although only 46% are subject to WTO bindings (bound tariffs are at zero-rate, including all agriculture and fisheries tariff lines). Non-tariff border measures are few, and import prohibitions and licensing are maintained mostly on the grounds of health, safety and environmental protection, and for the administration of excise duties. HKC has no legal instruments against the entry of dumped or subsidized products, and there is no legislation on safeguards. The authorities have indicated that no such measures have been taken.

3.3. HKC does not establish its own standards but adopts prevailing international standards and technical requirements. During the review period, HKC made a number of amendments to its laws on sanitary and phytosanitary (SPS) measures with the aim of enhancing food safety. For example, the Food Safety Ordinance, effective February 2012, established a registration scheme for food importers and distributors, and requires food traders to keep transactions records for up to 24 months to improve food traceability.

3.4. HKC does not impose export taxes. In general, export prohibitions and licensing apply to the same goods as those subject to import licences, and are applied mainly to protect the environment, public health, and safety; comply with international obligations; and enforce intellectual property rights (IPRs). Licensing and notification requirements for textiles trade with "non-sensitive markets" and for textiles transhipments were lifted in 2011. Since March 2013, powdered formula for infants and young children is subject to export licencing in order to ensure local supply of the product. Excise duties may be refunded, if the goods on which they were paid are exported. HKC, as a free port, does not maintain any other special economic or free zones schemes. The Government supports exporters mainly through export credit insurance and funding for export promotion activities.

3.5. HKC maintains a simple tax structure, with low tax rates. Nevertheless, several tax incentives are offered, including for the purchase of environmentally friendly commercial vehicles and for IPR-related expenditures. Non-tax incentives, mainly to support small and medium-size enterprises (SMEs), R&D activities, and the development of brands, are provided in the form of loans, loan guarantees, and cash grants. Overall, incentives are granted at modest levels.

3.6. In June 2012, HKC adopted its first comprehensive competition law, which is being implemented in phases. The new law applies to all sectors and deals with anti-competitive conduct such as price fixing, collusion, and abuse of market power. However, merger control is limited to the telecommunications sector. The law creates a Competition Commission with ample investigative powers and a Competition Tribunal to adjudicate enforcement proceedings and grant remedies. Generally, HKC does not impose price controls on goods or services, but it does monitor the prices of some energy products, and the fees for pilotage services in ports are set by the Government in consultation with the relevant stakeholders.

3.7. Hong Kong, China was one of the first Members to ratify the Protocol amending the WTO Agreement on Government Procurement (GPA), which entered into force in April 2014. HKC improved its commitments under the revised GPA by adding two government entities and six new types of services in its schedule. In 2013, total government procurement by HKC represented 5.8% of GDP, and over 82% of the goods purchased were imported. HKC has notified the WTO that it does not maintain state-trading enterprises.

3.8. The legal framework protecting intellectual property rights remained largely unchanged during the review period. However, there are ongoing initiatives to amend legislation on copyrights, with the aim of addressing protection in the digital environment, and on patents, to introduce an original grant patent system that would coexist with the current registration system. HKC has gained international recognition for its actions to improve IPRs awareness and enforcement, and is taking steps to fight the new global challenges raised by IPR-infringing activities in the digital environment.

3.2 Measures Directly Affecting Imports

3.2.1 Customs procedures and requirements

3.9. In accordance with the Basic Law, HKC retains its status as a free port. International trade is regulated mainly under the Import and Export Ordinance (Chapter 60), and its subsidiary regulations, including Import and Export (General) Regulations, Import and Export (Fees) Regulations, and Import and Export (Registration) Regulations. The Customs and Excise Department (C&ED) is responsible for implementing border measures, including with respect to enforcement of intellectual property rights. The Agriculture, Fisheries and Conservation Department (AFCD), as well as the Food and Environmental Hygiene Department (FEHD), are responsible for the enforcement of sanitary and phytosanitary (SPS) measures at the border.

3.10. The C&ED maintains a website on customs legislation and related operational guidelines.[1] It also sets up various customer liaison groups with stakeholders with the aim of enhancing communication and cooperation. For customs control and related matters, should there be any disagreements about customs decisions, traders may lodge an objection with the Chief Secretary for Administration within 14 days from the date the decision was known; traders may also appeal to a court. No administrative reviews or appeals, were registered during the review period.

3.11. Anyone in HKC may engage in import and export business. However, prior to commencement of business, traders of dutiable goods and controlled chemicals must be licensed by the C&ED; and traders of foods must register with the FEHD in accordance with the Food Safety Ordinance (Chapter 612).

3.12. According to the World Bank[2], HKC ranked second among 189 economies for ease of trading across borders. HKC has fewer document requirements, and faster and less costly procedures than most other constituencies (Table 3.1)

3.13. Importers must lodge a declaration within 14 days after a consignment's arrival, except for exempted articles.[3] All import declarations must be submitted electronically via one of the three government-appointed service providers, whose ceiling prices are set in their service agreements with the Government.[4] In 2014, two services providers increased their service charges by 16.3% and 22.5%.[5]

Table 3.1 Summary of procedures and documents for trading across borders

		HK, China	East Asia and Pacific average	OECD high income average
Number of documents required	Import	3	7	4
	Export	3	6	4
Days required to complete procedures	Import	5	22	10
	Export	6	21	11

[1] The Customs and Excise Department online information. Viewed at: http://www.customs.gov.hk/en/home/index.html.
[2] The World Bank Group (2013).
[3] Exempted articles are stipulated in Regulation 3 of the Import and Export (Registration) Regulations. They include transhipped or transit goods, and goods imported or exported by the Government.
[4] The three services providers are Brio Electronic Commerce Limited (Brio), Global e-Trading Service Limited (Ge-TS), and Tradelink Electronic Commerce Limited (Tradelink). Viewed at: http://www.cedb.gov.hk/citb/doc/en/gets/EMAN_Guidebook_(Eng).pdf
[5] Ge-TS' service charge has not changed since 2010.

		HK, China	East Asia and Pacific average	OECD high income average
Cost to complete procedures (US$ per container)	Import	565	884	1,090
	Export	590	856	1,070

Source: World Bank Group (2013), *Doing Business 2014*, *Economy Profile*. Viewed at: http://www.doingbusiness.org/reports/global-reports/~/media/giawb/doing%20business/documents/profiles/country/HKG.pdf.

3.14. For air cargo, carriers may submit advance cargo information electronically to Customs at least one hour before the arrival of the aircraft. In most cases, Customs can complete clearance prior to the flight's arrival. For sea cargo, the selection of vessels or cargoes for customs action is based on a range of risk indicators. Unless selected for inspection, sea cargoes may be discharged immediately upon arrival of the vessel. In October 2010, the C&ED introduced the e-Sea Customs Clearance (e-SCC) Scheme to simplify customs clearance procedures. The e-SCC allows sea freight forwarders to submit advance bill-of-lading information (for inbound/transhipment ocean mode consignments) in Excel/CSV formatted files to the C&ED via email. Under normal circumstances, e-SCC participants will not be issued a notice for consignee verification (Detention Notice Form 1), and when detention for physical examination is required (Detention Notice Form 2), only the suspicious articles in the consignment will be detained, so as to reduce the delay.[6]

3.15. During the period under review, HKC adopted a number of other trade facilitation measures, including mandatory use of the Road Cargo System (ROCARS); introduction of the Intermodal Transhipment Facilitation Scheme (ITFS); the Hong Kong Facilitation Scheme for Cross-strait Transhipment Cargoes; and the e-SCC Scheme; as well as the reduction of customs declaration fees. Hong Kong, China was the first developing Member to notify the WTO that it designates all provisions contained in Articles 1 to 12 of the WTO Trade Facilitation Agreement (TFA) under Category A.[7] This means that HKC will implement all trade facilitation measures laid out in the TFA upon its entry into force, without making use of the flexibilities provided in the agreement.

3.16. The use of ROCARS, an electronic customs clearance infrastructure for road cargoes, became mandatory in November 2011. A carrier or its agent is required to submit a predefined set of cargo information to the C&ED through ROCARS at least 30 minutes and at most 14 days before the arrival or departure of truck cargo consignments. The authorities note that the average clearance time at the land border for goods vehicles has been reduced from one minute to 20 seconds since the implementation of ROCARS.

3.17. The C&ED launched the Intermodal Transhipment Facilitation Scheme in November 2010 as a complement to the operation of ROCARS. The ITFS facilitates the movement of air–land and sea–land transhipment cargoes through a simplified clearance process. With the application of electronic lock and GPS technology in tracking the transhipment cargoes and their conveying trucks, such cargoes will normally be subject to only one inspection at either the entry or exit point. Participation in the ITFS is voluntary and open to carriers and forwarders of transhipment cargoes. Moreover, in response to the Cross-Straits Economic Cooperation Framework Agreement (ECFA) between Mainland China and Chinese Taipei, from January 2011, the C&ED offers to issue a confirmation certificate to traders for ECFA-preferential goods in transit through HKC.[8] The C&ED also provides confirmation certificates, upon request, for non-U.S. frozen chicken products in transit to Mainland China through HKC.

3.18. The new facilitation measures are free of charge except the issuance of confirmation certificates for ECFA preferential goods. On 1 August 2012, HKC halved the customs declaration fees for imports and exports.

[6] Under the Import and Export Ordinance, the C&ED may issue a carrier a Detention Notice (Form 1) for the purpose of verifying the identity of a consignee, and a Detention Notice (Form 2) for the purpose of consignment examination.

[7] WTO document WT/PCTF/N/HKG/1, 13 May 2014.

[8] For transhipment cargoes that require change of transport conveyance in HKC, the C&ED conducts random checks under the risk-management principle, in addition to documentary checks, before issuing a Confirmation Certificate.

3.19. After a pilot phase, HKC started formal implementation of the Authorized Economic Operator (AEO) Programme in April 2012, to grant local companies that satisfy pre-determined security criteria accredited trader status.[9] There are two tiers of AEOs, Tier 1 AEOs and Tier 2 AEO; the latter have to comply with additional criteria.[10] The benefits for AEOs include fewer customs controls, such as less customs inspection and priority customs clearance. The authorities expect that the 2-tier mechanism will attract more operators, in particular SMEs. Usually, Tier 1 AEOs will further enhance their security measures to acquire Tier 2 status. Participation in the AEO programme is voluntary and free of charge. The AEO programme is not open to companies not established in HKC. An AEO certificate is valid for three years, renewable.[11] As of 30 April 2014, 16 applicants held accredited trader status.

3.20. HKC has signed AEO mutual recognition arrangements with Mainland China (October 2013), India (November 2013), and the Republic of Korea (February 2014), through which traders accredited as AEOs by the C&ED receive the benefits provided under the AEO schemes in Mainland China, India, and the Republic of Korea, and *vice versa*. HKC is also holding discussions on an AEO MRA with Singapore.

3.21. HKC does not require the use of customs brokers or pre-shipment inspection.

3.2.2 Rules of origin

3.22. In general, no certificate of origin is required for imports of goods into HKC; however, it is mandatory to indicate the origin of imported goods when lodging an import/export declaration for statistical purposes.

3.23. HKC maintains preferential rules of origin under its free-trade arrangements with Mainland China, the EFTA member states, and New Zealand. In the case of exports, HKC implements a certification of origin system (section 3.3.1); for re-exports, the origin initially conferred by the place where goods originated is maintained.

3.2.3 Tariffs

3.24. All applied MFN tariffs are at zero. HKC does not operate tariff-rate quotas.

3.25. HKC is not a contracting party to the International Convention on the Harmonized Commodity Description and Coding System (HS Convention), but indicates that it applies the Harmonized System.[12] In 2014, 45.6% of HKC's tariff lines (HS 2012 nomenclature) were bound; all at a zero rate (Table 3.2). The slight increase in the percentage of bound lines (from 44.8% in 2010) merely reflects the change of nomenclature. HKC did not change its bound rate coverage during the review period.

Table 3.2 Bound tariff structure by WTO definitions, 2014

	Total number of lines	Number of bound lines[a]	Percentage of total lines[a]
Total lines	**7,341**	**3,349**	**45.6**
WTO agriculture	**1,030**	**1,030**	**100.0**
Animals and products thereof	172	172	100.0
Dairy products	27	27	100.0

[9] Local companies include manufacturers, importers, exporters, carriers, terminal operators, freight forwarders, warehouse-keepers, etc., irrespective of the company size and business model.

[10] The criteria for the two types of AEOs are listed on the C&ED website. Viewed at: http://www.customs.gov.hk/en/trade_facilitation/aeo/status/index.html.

[11] An AEO certificate may be suspended or revoked for breach of customs security. Upon revocation, the company will have its AEO status and associated benefits removed and may not re-apply for AEO certification within two years.

[12] World Customs Organization online information, "Nomenclature and Classification of Goods". Viewed at: http://www.wcoomd.org/en/topics/nomenclature/~/media/WCO/Public/Global/PDF/Topics/Nomenclature/Overview/HS%20Contracting%20Parties/List%20of%20Countries/Countries_applying_HS.ashx.

	Total number of lines	Number of bound lines[a]	Percentage of total lines[a]
Fruit, vegetables and plants	314	314	100.0
Coffee and tea	28	28	100.0
Cereals and preparations	125	125	100.0
Oil seeds, fats and oils and their products	90	90	100.0
Sugars and confectionary	26	26	100.0
Beverages, spirits and tobacco	71	71	100.0
Cotton	5	5	100.0
Other agricultural products n.e.s.	172	172	100.0
WTO non-agriculture (incl. petroleum)	**6,311**	**2,319**	**36.7**
Fish and fishery products	354	354	100.0
Minerals and metals	1,020	667	65.4
Chemicals and photographic supplies	1,416	142	10.0
Wood, pulp, paper and furniture	295	280	94.9
Textiles	697	100	14.3
Clothing	528	8	1.5
Leather, rubber, footwear and travel goods	217	88	40.6
Non-electric machinery	662	194	29.3
Electric machinery	349	154	44.1
Transport equipment	167	19	11.4
Non-agriculture articles n.e.s.	557	313	56.2
Petroleum	49	0	0.0

a Including 56 partially bound tariff lines.

Source: WTO Secretariat calculations, based on data provided by the authorities.

3.26. Of the 3,349 bound tariff lines (all at a zero rate), 1,030 lines cover agriculture (Table 3.2). All agricultural tariff lines are bound, as are all lines on fish and fishery products. In contrast, only 36.7% of non-agricultural lines are bound. Petroleum products remain unbound.

3.2.4 Other duties and charges

3.2.4.1 Internal taxes collected at the border

3.27. Liquor, tobacco, hydrocarbon oil, and methyl alcohol are subject to excise duties when consumed locally, whether they are locally manufactured or imported.[13] Duties are prepaid by the seller and included in the price. As there is little or no domestic production of these goods, the taxes fall mostly on imports. Since the last TPR of HKC, the only change in the rates of excise duties has been on tobacco, which increased by 41.5% on the grounds of public health (Table A3.1). In fiscal year 2013/14, excise duties collected at the border amounted to HK$9,720 million or 3.4% of total tax revenue in HKC (Table 3.3).

Table 3.3 Internal tax collection, 2010-14

(HK$ million)

Fiscal year		2010/11	2011/12	2012/13	2013/14
Excise Duties		7,552	7,725	8,976	9,720
Liquor	Local	0.6	0.2	0.2	0.2
	Import	298	363	383	415
Tobacco	Local	208	175	207	191
	Import	4,013	4,032	5,106	5,658
Hydrocarbon oil	Local	n.a	n.a	n.a	n.a
	Import	3,027	3,147	3,273	3,451

[13] Liquor with an alcoholic strength of less than 30% by volume is exempted from excise duties.

Fiscal year		2010/11	2011/12	2012/13	2013/14
Methyl alcohol	Local	n.a	n.a	n.a	n.a
	Import	5	8	7	5
First registration tax		6,657	7,070	7,466	8,338
Total tax revenue		241,526	275,115	279,563	288,065

n.a Not applicable.

Source: Information provided by the authorities.

3.28. The first registration tax is a progressive tax on the taxable value of new motor vehicles. Tax rates range from 40% to 115% for private cars. As no vehicles are produced in HKC, this tax is levied exclusively on imports. During the review period, first registration tax rates on private cars increased by 5 to 15 percentage points in a bid to relieve traffic congestion (Table A3.2). For environmental reasons, electric vehicles and environment-friendly vehicles continue to benefit from exemptions and reductions from this tax, respectively (section 3.4.1.2). The first registration tax accounted for about 2.9% of total tax revenue in fiscal year 2013/14.

3.29. Importers of goods subject to excise duties require licences/removal permits from the C&ED (section 3.2.6.2). These duties must be paid before customs clearance. If the imported goods are subsequently re-exported, the excise duties may be refunded.

3.2.4.2 Other charges

3.30. Apart from the import declaration fee and import licensing administrative charges, HKC does not apply any other charges on imports.

3.2.5 Customs valuation

3.31. Given that all applied tariff rates in HKC are zero, customs valuation is used essentially to facilitate internal tax (e.g. excise duties) collection at the border. There are no general laws, regulations, or administrative procedures for valuing goods for tariff purposes.[14]

3.32. The valuation method to assess excise duties is stipulated in Section 26A of the Dutiable Commodities Ordinance (Chapter 109). Under the Ordinance, the value of goods is its "normal price", which is the sales price of the goods in the open market between a buyer and a seller independent of each other. "Normal price" does not include the costs of transport and insurance and other related charges. Where a "normal price" cannot be determined, Customs may fix a value to assess and calculate the excise duties. For imported and domestically produced liquor, the ex-factory price is the basis for assessing the excise duty.

3.33. The first registration tax for vehicles is levied on the vehicle's published retail price. If there is no published price, the tax is assessed on the purchase price plus insurance and freight fees, together with any brokerage or agency fee related to the purchase and importation of the vehicle.

3.2.6 Import controls

3.34. The basic framework for import controls (including prohibitions, restrictions, and licensing) has remained largely unchanged since the previous Review of HKC, apart from steps taken to align the regime more closely with international practices.

3.2.6.1 Import prohibitions and restrictions

3.35. The authorities state that HKC imposes import prohibitions for reasons of public health, security, environmental protection, and compliance with international obligations. Prohibited imports include ozone-depleting substances, rough diamonds from countries outside the Kimberley Process, hazardous waste, and (more recently) certain radio-communications apparatus.[15]

[14] WTO document G/VAL/N/1/HKG/1, 31 January 1996.
[15] The WTO Secretariat could not locate a comprehensive list of items for which importation is strictly prohibited.

3.36. In November 2011, radio jammers that cause radio interference to existing services were banned from importation unless they are for subsequent re-export. In May 2013, PHS radio-communications apparatus operating within 1895–1906.1 MHz were also banned, except for re-export. This measure aims to vacate this radio band for other mobile radio-communications services. The authorities note that imports and exports of other radio-transmitting apparatus are not affected.

3.37. Imports of ozone-depleting substances, including methyl bromide are banned unless they are under the Montreal Protocol. Imports of ozone-depleting substances under the Montreal Protocol are subject to licensing requirements (section 3.2.6.2).

3.38. All imports of rough diamonds from non-participants of the Kimberley Process have been banned since 2 January 2003. Imports of rough diamonds must be covered by valid Kimberley Process Import Certificates issued by the Trade and Industry Department prior to importation (Table 3.4).

3.39. Under the Waste Disposal Ordinance (Chapter 354), imports of hazardous waste from countries listed in the Ninth Schedule of the Ordinance are prohibited.[16]

3.2.6.2 Import licensing

3.40. The application of import licensing in HKC is mainly for reasons of health, safety, environmental protection, public security, compliance with international obligations, and administration of excise duties collection (Table 3.4). Generally, products subject to licensing are listed in Schedule 1 of the Import and Export (General) Regulation.[17] During the review period, a few amendments were made to the import licensing schemes to bring them fully into line with the requirements of relevant international conventions.[18]

Table 3.4 Import licensing schemes, 2013

Goods	Licensing authority	Rationale
Strategic commodities[a]	Trade and Industry Department	To prevent HKC from being used as a conduit for proliferation of weapons of mass destruction, and to ensure HKC's continuous access to technology and high-tech products
Textiles from China	Trade and Industry Department	Surveillance for HKC's textiles export control system
Rice	Trade and Industry Department	To maintain a stable supply and a reserve stock for emergencies
Pesticides	Trade and Industry Department (for pesticides containing methyl bromide); Agriculture, Fisheries and Conservation Department (for pesticides other than methyl bromide)	Public health concerns
Rough diamonds	Trade and Industry Department	International obligation under Kimberley Process
Ozone-depleting substances	Trade and Industry Department	International obligation under the Montreal Protocol
Pharmaceutical products and medicines; proprietary Chinese medicines and 36 Chinese herbal medicines; and radioactive substances and irradiating apparatus	Department of Health	Public health, safety, and security; international obligation

[16] These are mostly EU and OECD member countries. For the Ninth Schedule, see: http://www.legislation.gov.hk/blis_ind.nsf/E1BF50C09A33D3DC482564840019D2F4/0ED23B4B855161184825715A0025EAD4?OpenDocument.

[17] The Department of Justice online information, "Bilingual Laws Information System". Viewed at: http://www.legislation.gov.hk/blis_ind.nsf/CurAllEngDoc/84B69C805C2EF1E2C82564800042AAF4?OpenDocument.

[18] For example, the amendments to the schedules of the Protection of Endangered Species of Animal and Plants Ordinance (effective 2011) and to the Pesticides Ordinance (effective January 2014).

Goods	Licensing authority	Rationale
Tobacco, liquors, methyl alcohol and hydrocarbon oil[b]	Customs and Excise Department	Excise duties collection and administration
Controlled chemicals[b]	Customs and Excise Department	To prevent diversion of controlled chemicals into illicit manufacture of narcotic drugs and psychotropic substances
Optical disc mastering and replication equipment	Customs and Excise Department	To enforce the intellectual property rights regime and to prevent the use of optical disc mastering and replication equipment for copyright infringing activities
Sand	Civil Engineering and Development Department	To protect beaches and seabeds
Frozen or chilled meat and poultry	Food and Environmental Hygiene Department	Public health and food safety
Genetically modified organisms (intended for release into environment)	Agriculture, Fisheries and Conservation Department	Biosafety; conservation of local biodiversity; international obligation under the Cartagena Protocol on Biosafety to the Convention on Biological Diversity
Live animals	Agriculture, Fisheries and Conservation Department	Sanitary consideration
Plants, plant pests, and soil	Agriculture, Fisheries and Conservation Department	Phytosanitary consideration
Endangered species of animals and plants	Agriculture, Fisheries and Conservation Department	International obligation under CITES
Non-pesticide hazardous chemicals[c]	Environmental Protection Department	To protect human health and the environment in accordance with, *inter alia*, the principles of the Stockholm Convention and the Rotterdam Convention
Waste	Environmental Protection Department	To fulfil international obligations under the Basel Convention and to ensure environmentally sound management of waste

a Radio-transmitting equipment, arms, ammunition, and explosive are subject to additional controls by other relevant authorities.
b Importers must apply to the Customs and Excise Department to become a licensed importer.
c The permit/licensing system does not apply to the controlled chemical, with exceptions, if the chemical is a constituent element of a manufactured product.

Source: WTO document G/LIC/N/3/HKG/17, 30 September 2013; and information provided by the HKC authorities.

3.41. Importers of dutiable goods and controlled chemicals must be licensed as traders before they can apply for removal permits (for dutiable goods) or for import authorization (for controlled chemicals). All these formalities are concluded with the Customs and Excise Department. The licence for traders is valid for one year, renewable; the removal permit/import authorization is consignment-specific.[19]

3.42. HKC maintains a comprehensive control system on the import and export of strategic commodities. Control of strategic commodities is administered through licences per consignment. Transhipment and transits cargoes[20] of strategic commodities are regarded as separate import and export operations, i.e. separate licences are required for import and export. Products subject to control are listed in the schedules to the Import and Export (Strategic Commodities) Regulations,

[19] There is an administrative charge for issuance/renewal of a licence (HK$1,090 for dutiable commodities importers; and HK$1,530 for controlled chemicals importers). There are no fees for issuance of a removal permit for dutiable goods or import authorization for controlled chemicals. See WTO document G/LIC/N/3/HKG/17, 30 September 2013.

[20] Under HKC legislation, there are two distinctive definitions for transhipment and transit. "Transhipment cargo" refers to any imported article that is consigned on a through bill of lading or a through air waybill from a place outside HKC to another place outside HKC, and is or is to be removed from the vessel, aircraft or vehicle in which it was imported and either returned to the same vessel, aircraft or vehicle or transferred to another vessel, aircraft or vehicle before being exported. "Article in transit" refers to an article brought in to HKC solely for the purpose of taking it out of HKC and remains at all times in or on the vessel or aircraft in or on which it is brought into HKC.

covering, *inter alia*, arms, ammunition, chemical and biological weapons and their precursors, nuclear materials and equipment, and industrial dual-use goods. The schedules were amended and entered into force in July 2013.

3.43. Under the Reserved Commodities Ordinance and its subsidiary legislation, any product designated as a reserved commodity is subject to import and export licensing. Currently, the only reserved commodity is rice.

3.44. Imports licences for ozone-depleting substances under the Montreal Protocol are issued by the Trade and Industry Department on individual consignments. Import quotas are applied to hydrochlorofluorocarbons (HCFCs); the quota is determined annually according to the requirements of the Montreal Protocol. Part of the quota (normal quotas) is allocated to registered importers based on their performance in the past year; the remainder (free quotas) is allocated on a first-come first-served basis. A common ceiling amount of quota is assigned to each importer applying for free quota; the ceiling is subject to change and review in accordance with the market situation. Following the phase-out schedule in the Montreal Protocol, all imports of HCFCs will be banned in January 2020.

3.45. In most cases, importers pay a fee for the application form for an import licence. The authorities state that all these fees are commensurate with the service cost. Import licences are valid from 28 days to one year, depending on the type of licence. Import licences are not transferable.

3.46. Textile imports from Mainland China are subject to an import licence per consignment entering HKC. Licences are issued by the Director-General of Trade and Industry, and serve as a surveillance system to back up the export control system. Importers registered under the Textiles Trader Registration Scheme (TTRS) are exempt from the licensing requirements, but are required to lodge import notifications. In 2013, almost all textiles imports from Mainland China were under the TTRS. The authorities note that the licensing and notification requirements will be removed after the passage of the relevant legislation amendment, which they expect will be completed before end 2014. The TTRS will remain in operation for academic and statistical purposes.

3.2.7 Contingency measures

3.47. HKC has not established an authority for initiating and conducting investigations on anti-dumping and countervailing measures. The authorities notified the WTO that HKC has taken no anti-dumping or countervailing actions, and they do not anticipate any in the foreseeable future.[21]

3.48. HKC has no legislation or institutional framework on safeguard measures. No safeguard measures have ever been adopted.

3.2.8 Sanitary and phytosanitary requirements

3.49. The institutional framework for SPS measures in HKC remains largely unchanged since its last Trade Policies Review in 2010. The Trade and Industry Department is the SPS enquiry point for the WTO.[22]

3.50. HKC notified 8 regular SPS measures to the WTO between January 2010 and April 2014; no notifications of emergency measures were submitted. The regular notifications covered, *inter alia*, foodstuffs, dairy products, sweeteners, genetically modified organisms, and horses from certain countries.[23]

3.51. There was a relevant international standard for five of the notified measures, and HKC considers that all five were in conformity with that international standard. All notifications specified a period of at least eight weeks for comment. In addition, two addenda were submitted during the period under review, providing additional information on the date of entry into force of previously notified SPS measures. In the SPS Committee, Japan raised concerns regarding HKC's import

[21] WTO documents G/ADP/N/193/HKG and G/SCM/N/202/HKG, 14 July 2010.
[22] WTO document G/SPS/ENQ/26, 11 March 2011.
[23] WTO documents G/SPS/N/HKG/32-39.

restrictions following the Japanese nuclear power plant accident[24]; similar restrictions were also applied by a number of other WTO Members.

3.52. HKC participates in meetings of the World Organization for Animal Health (OIE) and the Commission on Phytosanitary Measures of the International Plant Protection Convention (IPPC) under the auspices of China. HKC also participates in meetings of the Codex Alimentarius Commission and its committees as part of China's delegation.

3.53. Since the last TPR, new laws and amendments to SPS legislation were passed and became effective. he Food Safety Ordinance entered into force on 1 February 2012; the Genetically Modified Organism Ordinance on 1 March 2011; the amendment to the Harmful Substances in Food Regulation on 1 March 2012; the amendment to the Sweetener in Food Regulation on 1 August 2010; and the amendment to the Pesticide Residues in Food Regulation entered into force on 1 August 2014.

3.54. The Food and Health Bureau (FHB) and the Food and Environmental Hygiene Department (FEHD) are the competent authorities for food and related issues, under the mandate of the Food Safety Ordinance (Chapter 612) as well as the Public Health and Municipal Services Ordinance (Chapter 132) and its subsidiary regulations.[25] Under the new Food Safety Ordinance (2012), live aquatic products and edible ice are included in the definition of food.[26] The new ordinance requires importers and distributors of food to register with the FEHD prior to their commencement of business; and food importers/distributors must keep transaction records in order to enhance food traceability.[27] The Food Safety Ordinance also empowers the Director of Food and Environmental Hygiene to prohibit imports/supply of any food, through Food Safety Orders, on the grounds of public health.[28] There is no time limit for the prohibition but the Director of Food and Environmental Health may revoke the Order when he believes it is no longer necessary to prohibit the imports/supply.

3.55. Importers of certain high-risk food items are required to obtain an import licence and/or written permission from the FEHD prior to importation. High-risk food items include frozen confections; milk and milk beverage; and meat and poultry. Imports of these products are confined to sources recognized by the FEHD. In general, game, meat, and poultry sources are country-specific; whereas sources for frozen confections, milk, and milk beverage, are manufacturing plant-specific. No transhipment certificate is required for imports of meat and poultry transhipped in sealed refrigerated containers, if the seals have remained intact during transport.

3.56. Food importers are responsible for ensuring that food items comply with the relevant legislation and requirements, for instance, health certificates from the competent authorities of exporting countries.

3.57. Effective 17 June 2014, the import restriction on U.S. beef was relaxed: specified offal, bone-in beef (excluding cuts with vertebral column from cattle of 30 months of age or older), and boneless beef from cattle of all ages are allowed. Every consignment of such U.S. beef product imports must have prior permission from the Centre for Food Safety (CFS) under the FEHD and be accompanied by a health certificate. In line with notifications from the OIE, the Centre for Food Safety will temporarily suspend imports of poultry meat and poultry products (including poultry eggs) for human consumption from areas where avian influenza in poultry is reported. The WTO has not received any information on these temporary measures.

3.58. Sanitary controls on imported food are imposed on public health grounds and on the basis of risk assessment. According to the authorities, risk assessment is conducted using best available

[24] WTO document G/SPS/R/71, 28 August 2013.

[25] Centre for Food Safety online information, "Food Legislation". Viewed at: http://www.cfs.gov.hk/english/food_leg/food_leg.html.

[26] Drink; chewing gum and other products of a like nature and use; smokeless tobacco products; articles and substances used as ingredients in the preparation of food or drink or of such products, as well as live shell fish are defined as food under the Public Health and Municipal Services Ordinance (amended in 2011).

[27] For foods with shelf life of not more than three months, the transaction records must be kept for three months; for other foods, the requirement is 24 months.

[28] Section 30, "Food Safety Orders", the Food Safety Ordinance.

scientific evidence, and to provide input to support risk-management decisions. The CFS operates a Food Surveillance Programme to take samples of food, including vegetables and fruits at import, wholesale, and retail stages for testing.

3.59. The Pesticide Residues in Food Regulation entered into force in August 2014.[29] The Regulation promulgates a list of residue limits for certain pesticide food pairs formulated mainly with reference to international standards recommended by the Codex Alimentarius Commission, and supplemented by the standards of major food exporting economies to HKC. Import and sale of food containing pesticide residues whose limits are not specified in the Regulation is permitted only if consumption of such food is not dangerous or prejudicial to health, as confirmed by risk assessment carried out by the Centre for Food Safety under the FEHD.

3.60. Imports of live animals and plants are subject to strict inspection at the border to prevent the introduction and dissemination of animal diseases and plant pests. Importers of live animals and poultry for human consumption are encouraged to participate in the Voluntary Registration Scheme for Live Food Animals and Live Poultry Importers/Distributors. Imports of live animals and poultry are subject to a special permit from the Agriculture, Fisheries and Conservation Department (AFCD) (section 3.1.6.2) except imports of non-CITES animals and poultry from Mainland China.[30]

3.61. Imports of plants are regulated under the Plant (Importation and Pest Control) Ordinance, administered by the AFCD. Its principles and procedures are based on the Plant Protection Agreement for the Asia Pacific Region, and the International Plant Protection Convention (IPPC). A Plant Import Licence (PIL) issued by the AFCD, and a phytosanitary certificate are required to import plants except for plants and soil imported from Mainland China.

3.62. Provisions pertaining to genetically modified organisms (GMOs) are laid down in the Genetically Modified Organisms (Control of Release) Ordinance (Chapter 607), which entered into force in March 2011. No GMOs are allowed to be released into the environment, unless the GMOs are pharmaceutical products for use by human beings or certain criteria have been met.[31] Release of GMOs into the environment requires authorization from the AFCD. Two varieties of GM papaya (i.e. the variety with the unique identifier code CUH-CP551-8 and the variety with the transformation event code Huanong 1) and any GMO that is contained in a veterinary vaccine are exempted from the requirement.[32] Imports of GMOs intended for release into the environment require prior approval from the AFCD; exports of GMOs for the same purpose are prohibited in general.[33]

3.63. Applicants who wish to release a GMO into the environment or import a GMO for release into the environment must submit a specified application form and a risk-assessment report on the possible adverse biosafety effect of the GMO.[34] Results of risk assessments conducted by foreign institutions are accepted. The approval procedure requires no longer than 270 days, unless additional information or supporting documents are required, but may be extended with written notice from the AFCD. Since this ordinance became effective in 2011, there has been no applications for release of GMOs into the environment.

3.64. Imports of GMOs (including those intended for release into the environment, contained use, and direct consumption as food or feed, or for processing (FFP)), must be accompanied by prescribed documents. These documents must contain information including the GMO identity, its common name, and scientific name, the importer and exporter, and other information as required in the relevant regulation.[35] If an import shipment is unintentionally mixed with GMOs intended for

[29] Centre for Food Safety online information, "Food Legislation". Viewed at: http://www.cfs.gov.hk/english/whatsnew/whatsnew_fstr/whatsnew_fstr_21_Pesticide.html.

[30] Imports of non-CITES animals and poultry from Mainland China are regulated in separate legislation. The authorities note that the exemption from special permits is on the grounds of trade facilitation given that Mainland China is the major supplier of live animals and poultry for human consumption in HKC. The authorities also note that the control measures on these imports from Mainland China are not less strict than on imports from other sources.

[31] Section 5, the Genetically Modified Organisms (Control of Release) Ordinance.

[32] Genetically Modified Organisms (Control of Release) (Exemption) Notice.

[33] Section 7 & 23, the Genetically Modified Organisms (Control of Release) Ordinance.

[34] Section 8, the Genetically Modified Organisms (Control of Release) Ordinance.

[35] Section 26, the Genetically Modified Organisms (Control of Release) Ordinance.

contained use or FFP, and the quantity of the GMOs in the total quantity of living organisms in the lot does not exceed the prescribed percentage, the GMO in question is not required to be accompanied by a document.[36] Currently, the prescribed percentage of GMOs is 5%.

3.2.9 Standards and other technical requirements

3.65. HKC has no official institution for standards, and there is no comprehensive legislation in this area. HKC has not developed its own standards. The authorities maintain that HKC adopts international standards or overseas standards, where appropriate. The Innovation and Technology Commission (ITC) is the TBT enquiry point for the WTO.[37]

3.66. HKC notified 11 technical regulations and conformity assessment procedures to the WTO in the period January 2010 to April 2014.[38] The notifications cover as foodstuffs, dairy products, genetically modified organisms, and household appliances. The notifications normally specify a comment period of at least 60 days and a proposed date of adoption after the expiry of the comment period. HKC also submitted four addenda, providing additional information on the adoption of technical regulations.

3.67. Compulsory standards, i.e. technical requirements, apply to motor vehicles, machinery, fuels, consumer goods, toys, children's products[39], household electrical apparatus, portable firefighting equipment, and telecommunication apparatus and equipment. The authorities note that these technical requirements are imposed for safety, health, and environmental protection reasons (Table A3.3).

3.68. Generally, mandatory product certification is not required; different regulatory agencies formulate their own conformity assessment requirements and procedures to suit specific needs. Importers are responsible for ensuring that consumer products (including toys) comply with the relevant safety requirements/standards. The C&ED is the competent authority for ensuring product safety compliance.[40]

3.69. The Hong Kong Accreditation Service (HKAS), under the ITC, provides accreditation services to laboratories, certification bodies, and inspection bodies. The HKAS operates three accreditation schemes: the Hong Kong Laboratory Accreditation Scheme (HOKLAS), the Hong Kong Certification Body Accreditation Scheme (HKCAS), and the Hong Kong Inspection Body Accreditation Scheme (HKIAS). At end 2013, there were 206 laboratories, 20 inspection bodies, and 19 certification bodies accredited by the HKAS. These institutions must undergo on-site assessments before they are accredited. There are statutory requirements for testing and certification by accredited bodies.

3.70. The HKAS is a member of the International Accreditation Forum (IAF), the International Laboratory Accreditation Cooperation (ILAC), the Pacific Accreditation Cooperation (PAC), and the Asia Pacific Laboratory Accreditation Cooperation (APLAC). It is also a signatory to the multilateral mutual recognition arrangements administered by these organizations. As of May 2014, the HKAS had concluded 87 MRAs with 69 economies.[41]

3.71. The Government considers that testing and certification services is an industry where HKC has a clear advantage. In March 2010, the Hong Kong Council for Testing and Certification

[36] The Genetically Modified Organisms (Documentation for Import And Export) Regulation.

[37] WTO document G/TBT/ENQ/38/Rev.1, 8 July 2011.

[38] WTO documents G/TBT/N/HKG/34-44.

[39] The Toys and Children's Products Safety Ordinance was amended in December 2013 to enable regulations to be made to control the concentration of six types of phthalates in toys and children's products. The Toys and Children's Products Safety (Additional Safety Standards or Requirements) Regulation was made under the amended Ordinance in February 2014 to stipulate the concentration limits of the six types of phthalates in toys as well as children's products intended to facilitate the feeding, hygiene, relaxation, sleep, sucking or teething of a child under 4 years of age and containing any plasticized material. The Regulation entered into effect in July 2014. See Customs online information, "Toys and Children's Products Safety" at: http://www.customs.gov.hk/en/consumer_protection/toys_safety/index.html.

[40] C&ED online information, "Consumer Protection". Viewed at: http://www.customs.gov.hk/en/consumer_protection/toys_safety/index.html and http://www.customs.gov.hk/en/consumer_protection/goods_safety/index.html.

[41] ITC online information. Viewed at: http://www.itc.gov.hk/en/quality/hkas/about.htm.

(HKCTC)[42] proposed a three-year market-oriented development plan for the testing and certification industry. In March 2013, the HKCTC made a number of recommendations in its review of the development plan with the aim of converting HKC into a testing and certification hub in the region. The recommendations include improving HKC's accreditation system and selecting four focused trades (Chinese medicine, construction materials, food, and jewellery) for testing and certification services.[43] The HKCTC recommendations were accepted by the Government.

3.72. Food labelling requirements are specified in Schedule 3 of the Food and Drugs (Composition and Labelling) Regulations. Manufacturers or packers of pre-packaged food must declare the presence of allergenic substances in food and the functional use and specific name or International Numbering System (INS) number of food additives in the food. Regular inspections are carried out and random food samples are tested to verify the labelled content. Penalties for violations are a maximum fine of HK$50,000 and 6 months imprisonment.

3.73. Labelling of GM food follows a voluntary "positive labelling" approach, i.e. any food with 5% or more GM materials in their respective food ingredient(s) should be labelled as "genetically modified". The negative labelling approach, i.e. "GM free" or similar labels, is not recommended, as the authorities consider this might be misleading to consumers.

3.3 Measures Directly Affecting Exports

3.3.1 Export documents and procedures

3.74. An export declaration must be lodged electronically with the Customs and Excise Department (C&ED) within 14 days of the export of a consignment, except for exempted articles.[44] Declarations are also required for re-exports. In general, required shipping documents include the manifest, commercial invoice, bill of lading/air waybill, packing list, and other documents, such as removal permits (licence/permit/certificate/authorization required by law upon exportation of controlled items). Exports are not subject to any customs actions unless they are selected for customs verification and inspection through risk profiling. Cargo detained for further checks, which is a very small percentage of the volume of consignments, is generally released within 30 minutes.

3.75. While a certificate of origin (CO) is not mandatory for exports of goods, the authorities administer an origin certification system to facilitate HKC's exports.[45] In particular, this system helps exporters meet the requirements of importing countries and benefit from trade preferences. Generalized Preference Certificates are issued for exports to Canada[46] and Russia; Certificates of Hong Kong Origin – CEPA (CO-CEPA) for exports to Mainland China; and Certificates of Hong Kong Origin – New Zealand (CO-NZ) for exports to New Zealand.[47] Only registered manufacturers with verified capability to perform the origin-conferring processes of their registered products may apply for COs.[48]

3.3.2 Export taxes, charges, and levies

3.76. HKC does not impose any export-related duties or taxes.

[42] The Hong Kong Council for Testing and Certification (HKCTC), established in 2009, is a non-statutory advisory body to the Government on the overall strategy to support the development of the testing and certification industry.

[43] For details, see the Review Report of the Hong Kong Council for Testing and Certification (2013).

[44] Exempted articles are stipulated in regulation 3 of the Import and Export (Registration) Regulations.

[45] In addition to the Trade and Industry Department (TID), five organizations have been delegated authority to issue COs: 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. The TID ensures that all issuing organizations adopt the same rules of origin, practices, and procedures in the issuance of COs.

[46] HKC's entitlement to benefits under the General Preferential Tariff Scheme of Canada will be discontinued with from 1 January 2015.

[47] This certificate is applicable to goods under HS Chapters 61 and 62.

[48] Prior to applying for COs (including CO–CEPA and CO-NZ), the manufacturers must apply for Factory Registration (FR) with the TID to demonstrate their capability to produce their registered products. Production capability will be verified by the C&ED before granting registration. Periodic re-inspections will follow.

3.77. Excise duties may be refunded (up to the amount of duty paid) if the goods subject to excise duties are exported.[49]

3.78. Exports of locally manufactured clothing and footwear continue to be subject to a clothing industry training levy of HK$0.30 per HK$1,000. The levy is used for training courses for the clothing industry, the establishment and maintenance of industrial training centres, and placement assistance for persons completing training courses by the Clothing Industry Training Authority.

3.3.3 Export prohibitions, restrictions, and licensing

3.79. HKC applies trade sanctions imposed by the UN Security Council.[50] To fulfil international obligations, exports of rough diamonds to non-participants of the Kimberley Process, and exports of ozone-depleting substances to non-parties to the Montreal Protocol are banned.

3.80. Most goods subject to export licensing mirror those subject to import licensing, except for powdered formula, frozen and chilled meat and poultry, live animals, plants, and waste (Table 3.5). Certain exports require an export licence/permit, or a removal permit or certificate on grounds of, *inter alia*, protection of the environment, security, public health, intellectual property rights, fulfilling international obligations, and revenue protection (from dutiable commodities).

Table 3.5 Export licensing schemes, 2013

Goods	Licensing authority	Rationales
Powdered formula for infants and young children aged under 36 months	Trade and Industry Department	To tackle the serious shortage of powdered formula in the local market caused by parallel traders, and to safeguard the health of local infant and young children aged under 36 months
Strategic commodities[a]	Trade and Industry Department	To prevent HKC from being used as a conduit for proliferation of weapons of mass destruction and to ensure HKC's continuous access to technology and high-tech products
Textiles	Trade and Industry Department	To ensure origin compliance of textiles products claiming Hong Kong origin
Radio-communications transmitting apparatus	Office of the Communication Authority	To comply with the relevant legislation requirement
Rough diamonds	Trade and Industry Department	International obligation
Ozone-depleting substances	Trade and Industry Department	International obligation
Rice	Trade and Industry Department	To maintain a stable supply and a reserve stock for emergencies
Pesticides	Trade and Industry Department (for pesticide containing methyl bromide); Agriculture, Fisheries and Conservation Department (for pesticide other than methyl bromide)	International obligation
Pharmaceutical products and medicines; proprietary Chinese medicines and 36 Chinese herbal medicines; and radioactive substances and irradiating apparatus	Department of Health	Public health, safety, and security; international obligation
Tobacco, liquors, methyl alcohol and hydrocarbon oil	Customs and Excise Department	Excise duties collection and administration

[49] Excise duties may also be refunded on: imported goods that do not correspond to the description of the contract of sale or are damaged in transit and therefore destroyed in HKC or returned to the overseas suppliers; goods imported for consular use; goods used in the manufacture of dutiable goods; samples drawn for analysis by the Government; reasonable quantity of fuel in the fuel tank of any "pleasure vessel" (yacht) whose net registered weight is more than 60 tonnes, to reach an identified port outside HKC; and light diesel oil used in franchized buses and support vehicles. Viewed at: http://www.customs.gov.hk/en/trade_facilitation/dutiable/payment/index.html.

[50] UN Security Council Resolutions adopted by China extend to Hong Kong, China.

Goods	Licensing authority	Rationales
Controlled chemicals	Customs and Excise Department	To prevent diversion of controlled chemicals into illicit manufacture of narcotic drugs and psychotropic substances
Optical disc mastering and replication equipment	Customs and Excise Department	To enforce the intellectual property rights regime and to prevent the use of optical disc mastering and replication equipment for copyright infringing activities
Sand	Civil Engineering and Development Department	To protect beaches and seabeds
Genetically modified organisms (intended for release into environment)	Agriculture, Fisheries and Conservation Department	International obligation under the Cartagena Protocol on Biosafety to the Convention on Biological Diversity
Endangered species of animals and plants	Agriculture, Fisheries and Conservation Department	International obligation
Non-pesticide hazardous chemical[b]	Environmental Protection Department	To protect human health and the environment in accordance with, *inter alia*, the principles of the Stockholm Convention and the Rotterdam Convention

a Arms, ammunition, and explosives, munitions items, chemical and biological weapons and their precursors, nuclear materials and equipment, and industrial dual-use goods.
b The permit/licensing system does not apply to the controlled chemical, with exceptions, if the chemical is a constituent element of a manufactured product.

Source: WTO document G/LIC/N/3/HKG/17, 30 September 2013; and information provided by the authorities.

3.81. The Textiles Control System has been further relaxed since 20 May 2011. Textiles imports and exports involving "non-sensitive markets" as well as textiles transhipments are no longer subject to textiles licence or notification. HKC categorizes markets for textiles and clothing products as "sensitive" and "non-sensitive". Sensitive markets are Mainland China for both imports and exports, and the United States for exports.[51] All other markets are non-sensitive. Textiles imports/exports for sensitive markets must be covered by either consignment-specific import/export licences, or textiles notifications by traders registered under the Textiles Trader Registration Scheme (TTRS) administered by the TID. The authorities indicate that the licensing and notification requirements will be removed by a legislation amendment, which is expected to be passed before the end of 2014.

3.82. Effective 1 March 2013, an export licence from the Trade and Industry Department is required for powdered formula for infants and young children aged under 36 months.[52] According to the authorities, this licensing requirement is not intended to be a long-term arrangement. It is to tackle the serious shortage caused by the diversion of large quantities away from the local supply chain by parallel traders, as demand for powdered formula in HKC is met entirely by imports. To facilitate legitimate trading activities, such export licences are in general issued to importers of powdered formula registered under the Food Safety Ordinance (Chapter 612) and may only be used for re-exporting. The authorities consider that this licensing arrangement may prevent parallel traders from obtaining licences to export powdered formula acquired in the local market. No fees are charged for processing the licence application. As of 31 May 2014, around 10,110 licences had been issued. Transit or transhipment cargos are exempted from export licensing.

[51] The European Union has been categorized as "non-sensitive" for exports since end-June 2009.
[52] This export licensing requirement is applied not only to traders but also individual persons, unless exempted under the law. For personal use, each individual aged 16 or above is exempted from licensing for powdered formula that is exported in his/her accompanied personal baggage with a total net weight up to 1.8 kg on their first departure from HKC within a 24-hour period.

3.3.4 Export assistance and facilitation

3.83. HKC's notifications to the WTO Committee on Subsidies and Countervailing Measures do not report any export subsidies.[53] Given that HKC is a free port, it has not established special economic zones, export processing zones, or other free zones.

3.84. The Hong Kong Export Credit Insurance Corporation (ECIC) provides insurance to exporters against losses from non-payment by buyers due to commercial and political risks. Its contingent liability is guaranteed by the HKC Government (Table A3.4). In December 2012, the ECIC's statutory maximum liability was increased from HK$30 billion to HK$40 billion. In March 2013, the ECIC introduced a Small Business Policy (SBP) for enterprises with an annual business turnover of less than HK$50 million, providing exporters with more flexibility in taking out insurance cover.

3.85. The Export Marketing Fund (EMF), managed by the TID, aims to help small and medium-size enterprises (SMEs) expand their businesses through participation in export promotion activities such as exhibitions, trade missions, and placing advertisements in printed trade publications and eligible trade websites targeting export markets. The EMF provides each successful application with grants to cover 50% of approved expenses with a ceiling of HK$50,000. On 10 June 2013, the EMF increased the cumulative ceiling for each SME from HK$150,000 to HK$200,000, subject to conditions.[54]

3.86. In addition, the HKC Government set up the Dedicated Fund on Branding, Upgrading and Domestic Sales (the BUD Fund) in June 2012 to support local enterprises to develop their brands, upgrade and restructure their operations and promote sales in Mainland China's market (Section 3.4.1.3). Subject to the fund's balance, the BUD Fund will be open for applications for five years.

3.87. Trade promotion activities are also supported by the Hong Kong Trade Development Council (HKTDC). With more than 40 global offices, including 13 in Mainland China, the HKTDC promotes HKC as a platform for doing business with Mainland China and throughout Asia. The HKTDC promotes exports, with particular focus on exports by SMEs, through, *inter alia*, organizing trade fairs and overseas business missions, whilst providing information on industries and services through trade publications and research reports.

3.4 Measures Affecting Production and Trade

3.4.1 Taxation and incentives

3.4.1.1 Taxation

3.88. In general, HKC has a simple tax structure and low tax rates. The taxation structure relies on direct taxes, i.e. profits tax and earnings taxes, which accounted for 65.3% of total tax revenues in fiscal year 2012/13 (Table 3.6).

Table 3.6 Government revenues, 2009-13

	2009/10	2010/11	2011/12	2012/13
Government revenue (HK$ million)	318,442	376,481	437,723	442,150
of which:				
Taxes revenue (HK$ million)	207,865	241,526	275,115	279,563
	(% of tax revenue)			
Direct taxes	59.26	59.21	64.27	65.26
Profits tax	36.85	38.58	43.11	44.94
Salaries tax and personal assessment	21.60	19.95	20.45	19.51
Property tax	0.81	0.68	0.71	0.81

[53] WTO documents G/SCM/N/253/HKG, 16 July 2013; and G/SCM/N/220/HKG, 19 May 2011.

[54] The condition to benefit from the increment is that the extra HK$50,000 must be used in an export promotion event that has not been recorded in previous applications under this programme. For details, see TID online information, "SME EMF, Amount of Grant". Viewed at: https://www.smefund.tid.gov.hk/english/emf/emf_grant.html.

	2009/10	2010/11	2011/12	2012/13
Indirect taxes	40.74	40.81	35.72	34.75
Bets and sweep tax	6.14	6.11	5.73	5.93
Stamp duties	20.39	21.12	16.12	15.34
Air passenger departure tax	0.78	0.75	0.71	0.73
Duties	3.11	3.13	2.81	3.21
General rates	4.79	3.71	3.53	4.01
Motor vehicle tax	2.32	2.76	2.57	2.67
Royalties and concessions	0.77	1.02	1.76	0.98
Fees and charges (tax loaded fees)	2.35	2.12	2.46	1.83
Estate duty	0.09	0.09	0.03	0.05
Non-tax revenue (HK$ million)	110,577	134,955	162,608	162,587

Source: Secretariat calculations based on Census and Statistics Department online information, "Government Revenue". Viewed at: http://www.censtatd.gov.hk/hkstat/sub/sp110.jsp?tableID=193&ID=0&productType=8.

3.89. Profits tax and salaries tax are the major direct taxes. All business taxpayers, irrespective of their resident status, are subject to a tax on profits arising in or derived from HKC, at a rate of 16.5% for incorporated business or 15% for unincorporated business. The law also allows for depreciation in respect of capital expenditures incurred on the construction of industrial and commercial buildings and structures, as well as on machinery and plant. There are also specific deductions of capital expenditures on machinery and plant related to manufacturing and environmental protection. Depreciation allowances or write-offs on certain capital expenditures is to encourage businesses to upgrade production, protect the environment or enhance operations by making capital investment.

3.90. Salaries tax is imposed on all income arising in or derived from HKC from an office, employment, or pension, for residents and non-residents. The salaries tax rates remained unchanged during the review period.

3.91. Stamp duties account for almost half of indirect tax revenues. They apply to, among others, transfer of immovable property, and of Hong Kong stock. Stamp duties on immovable property are charged at progressive *ad valorem* rates. In addition to the *ad valorem* stamp duty (AVD), any residential property acquired on or after 20 November 2010 and resold within 24 months[55] is subject to a Special Stamp Duty (SSD), with the objective of curbing short-term speculation on residential properties. On top of the AVD and the SSD, any agreement for sale or conveyance on sale for acquisition of any residential property by non-Hong Kong permanent residents executed on or after 27 October 2012 is subject to a Buyer's Stamp Duty (BSD), with the purpose of ensuring that local buyers will be accorded priority amidst the supply-demand imbalance. The Stamp Duty (Amendment) Bill 2013, which was passed on 15 July 2014, includes provision for an increase of the AVD rates for properties acquired on or after 23 February 2013. This provision aims to enhance demand management in respect of the residential property market and to forestall the shifting of overheating in the residential property market to the non-residential property market.

3.4.1.2 Tax incentives

3.92. HKC maintains several tax concessions and exemptions. Exemptions from profits tax are granted on, *inter alia*, dividends received from a corporation that is subject to Hong Kong Profits Tax; interest on Tax Reserve Certificates; interest income and trading profits derived from long-term debt instruments; and interest on, and any profit made, in respect of renminbi sovereign bonds.

3.93. In addition, a number of incentives regarding profits tax were granted during the review period. These include: a 100% profits tax write-off in the first year of purchase of environment-friendly commercial vehicles; a deduction for capital expenditure incurred on the purchase of registered trademarks, copyrights, and registered designs; and a general reduction of 75% of the profits tax (with a ceiling of HK$12,000 for fiscal year 2011/12, and HK$10,000 for 2012/13).

[55] For residential property acquired on or after 27 October 2012, a 36-month period is applied.

3.94. Other tax incentives include: a waiver of first registration tax for electric vehicles; concessions for environment-friendly vehicles; and extension of stamp duty concessions to cover exchange traded funds (ETFs) that track indices comprising not more than 40% Hong Kong stocks, to help promote the development of ETFs in HKC. The authorities' estimate forgone revenue from these tax incentives was HK$26.3 billion in fiscal year 2013/14 (Table 3.7). In response to the global financial crisis, HKC offered a one-off reduction of 75% of salaries tax and tax under personal assessment; and a waiver of business registration fees.[56]

Table 3.7 Forgone revenues from tax incentives, 2010-14

(HK$ billion)

Fiscal year	2010/11	2011/12	2012/13	2013/14[a]
Profits tax	n.a	0.88	2.3	2.45
Salaries tax and personal assessment	4.5	6.55	12.42	8.82
Stamp duties	0.84	0.59	0.8	0.68
General rates	8.8	9.9	12.5	11.6
Motor vehicle tax	0.32	0.86	1.54	0.65
Business registration fees	1	0.8	1.9	2.1
Total	**15.46**	**19.58**	**31.46**	**26.3**

n.a Not applicable.

a Estimate.

Source: Information provided by the HKC authorities.

3.4.1.3 Non-tax incentives

3.95. The Government provides a number of non-tax incentives and assistance for agriculture and fisheries (section 4.2), small and medium-size enterprises (SMEs), research and development (R&D) activities, and certain services (Table A3.5). Some of the major programmes and changes are highlighted below.

3.96. The authorities consider that SMEs are the backbone of the local economy, and are therefore committed to providing support to enhance the competiveness of SMEs. Three funding schemes, administered by the Trade and Industry Department, provide assistance in the form of loan guarantees, and grants.[57] In general, SMEs that are registered under the Business Registration Ordinance (Chapter 310) and have substantive business operations in HKC are eligible for assistance.[58]

3.97. The SME Loan Guarantee Scheme (SGS) helps SMEs secure loans from participating lending institutions (PLIs)[59], by providing a guarantee for up to five years for business installation and equipment loans, and a guarantee for working capital loans (Table 3.8). The guarantee covers a maximum of 50% of the approved loans from the PLI, with a cap of HK$6 million for each SME. In July 2011, the Government increased the total loan guarantee commitment by HK$10 billion to HK$30 billion.[60]

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[56] The HKC authorities note that these relief measures are one-off, i.e. they are not recurrent and will only be introduced having regard to the economic and financial position each year.

[57] Trade and Industry Department online information, "SME Funding Schemes", viewed at: http://www.smefund.tid.gov.hk/eindex.html.

[58] The SME development funds are open to non-profit-distributing organizations operating as support organizations, trade and industrial organizations, professional bodies or research institutes to enhance the competitiveness of SMEs in general or SMEs in specific sectors.

[59] All authorized institutions under the Banking Ordinance (Chapter 155) are eligible to join the SME Loan Guarantee Scheme as participating lending institutions (PLIs). PLIs' participation in the scheme is subject to the terms and conditions set out in a deed signed between individual PLIs and the HKC Government. At present, there are 36 PLIs actively providing loan service under the scheme. Viewed at: http://www.smefund.tid.gov.hk/english/sgs/sgs_procedures.html.

[60] For details, see the HKC Legislative Council Finance Committee discussion agenda. Viewed at: http://www.legco.gov.hk/yr10-11/english/fc/fc/papers/f11-43e.pdf.

Table 3.8 Support under SME Loan Guarantee Scheme, 2010-13

(HK$ million)

	2010	2011	2012	2013
Business installation and equipment loans				
No. of applications	343	212	166	118
No. of approvals	299	187	151	107
Total amount of guarantee committed	316.43	186.63	105.04	81.87
Total amount of loans approved	665	383.48	214.85	163.76
Working capital loans				
No. of applications	649	1,704	1,601	1,082
No. of approvals	593	1,597	1,460	993
Total amount of guarantee committed	1,719	1,927	1,770	1,272
Total amount of loans approved	3,438	3,850	3,546	2,533

Source: Information provided by the authorities.

3.98. The Special Loan Guarantee Scheme (SpGS), introduced in December 2008 as a response to the global financial crisis and providing up to 80% (70% before 15 June 2009) guarantees for loans for general business uses, was closed for application at end 2010. The maximum guarantee period for each loan (for the non-revolving loan or revolving credit line) was 60 months, or up to 31 December 2015, whichever is earlier. As of end-March 2014, the SpGS had approved 39,298 out of 43,000 applications; the cumulative approved loans reached HK$94.6 billion.[61]

3.99. As a replacement for SpGS, an SME Financing Guarantee Scheme, managed by the Hong Kong Mortgage Corporation Limited (HKMC), has provided SMEs with similar guarantees for loans since January 2011. With a view to relieving credit tightening on SMEs under the uncertain external economic environment, the HKC Government provided a total loan guarantee commitment of HK$100 billion for HKMC to launch a special time-limited 80% guarantee product at a concessionary fee rate on 31 May 2012 under its existing SME Financing Guarantee Scheme.[62] The application period for this 80% guarantee product is extended until end-February 2015. As of end-April 2014, more than 8,600 applications had been approved involving a total loan guarantee amount of around HK$29 billion.

3.100. A Dedicated Fund on Branding, Upgrading and Domestic Sales (the BUD Fund) of HK$1 billion was set up in June 2012. The BUD fund aims to support HKC enterprises to improve their competitiveness and further their business development in Mainland China through developing their brands, upgrading and restructuring their operations, and promoting sales in the Chinese market. The BUD Fund comprises the Enterprise Support Programme, and the Organization Support Programme. SMEs are eligible to apply for funding support under the Enterprise Support Programme. This programme, managed by the Hong Kong Productivity Council, provides cash grants to cover up to 50% of the total approved project cost, subject to cash contribution by the applicant enterprise of not less than 50%; each enterprise may obtain funding for a maximum of three approved projects, with a cumulative funding ceiling of HK$500,000. At end-March 2014, 1,027 applications had been received under the programme and 728 applications had been processed[63], amongst which 205 approvals and 24 conditional approvals.[64] The total amount of funding approved was around HK$88.2 million. The Organization Support Programme, managed by the TID, provides funding for approved projects of non-profit-distributing organizations to assist HKC enterprises in general or in specific sectors. At end-March 2014, 38 out of 87 processed applications had been approved; the average amount of grant per approved application was around HK$3.3 million, and the total funding approved was about HK$125 million.

3.101. Incentives and assistance for R&D activities in HKC are administered mainly by the Innovation and Technology Commission (ITC). These take the form of, *inter alia*, loan provision,

[61] Trade and Industry Department online information, "Special Loan Guarantee Scheme". Viewed at: http://www.smefund.tid.gov.hk/english/spgs/spgs_statistics.html.

[62] The Hong Kong Mortgage Corporation Limited online information, "SME Financing Guarantee Scheme". Viewed at: http://www.hkmc.com.hk/eng/ops/ourbusiness/sme.html.

[63] 221 applications were withdrawn by the applicant enterprises.

[64] Final approval of the applications and the amount of grant is subject to further information submitted by the applicants.

grants, and cash rebate (Table A3.5). The ceiling for loans under the Small Entrepreneur Research Assistance Programme (SERAP) was lifted to HK$6 million in April 2012 (from HK$4 million before); under the R&D Cash Rebate Scheme, enterprises are now granted a cash rebate equivalent to 30% (10% in 2012) of their R&D expenditure. In 2013, the two largest R&D schemes were the SERAP, under which US$6.51 million of loans were approved, and the Innovation and Technology Support Programme, which extended grants worth US$66.09 million.

3.4.2 Competition policy and price controls

3.4.2.1 Competition policy

3.102. HKC adopted its first comprehensive competition law (the Competition Ordinance, Chapter 619) on 14 June 2012. Until that date, anti-competitive conduct was discouraged through voluntary compliance by the business community with administrative guidelines. However, telecommunications and broadcasting were subject to competition-related regulation. The new Competition Ordinance applies to all sectors and provides a legal framework to deal with anti-competitive conduct such as cartels and abuse of market power. Unlike in many other jurisdictions, the Ordinance does not establish a cross-sector merger control regime, which remains limited to mergers in the telecommunications sector. To ensure enforcement, the Ordinance provides for the creation of a Competition Commission with ample investigative powers and a Competition Tribunal to adjudicate competition-related cases and grant remedies, including pecuniary penalties and relief.

3.103. The Ordinance is a significant step towards competition policy development and reform in HKC. It follows international best practices and adopts a prohibition approach. Some have argued, however, that being the result of years of legislative process, public consultations and heated debate, the Competition Ordinance contains a number of compromises and exclusions to take into account the concerns expressed during the debate[65], as well as the particularities of the business sector in HKC.[66] The Commission is required under the Ordinance to issue guidelines on how it expects to interpret and give effect to key provisions.

3.104. The Competition Ordinance is being implemented in phases. The institutional provisions related to the establishment and operation of the Commission took effect on 18 January 2013, and those related to the Tribunal on 1 August 2013.[67] The substantive provisions will become effective at a date to be announced by the Secretary for Commerce and Economic Development. At the time of writing (June 2014), the Members of the Commission had been appointed and preparatory work for the establishment of the Tribunal was under way. Also, the Commission had started drafting regulatory guidelines and was expected to consult the public in 2014. The Ordinance will be fully implemented when the preparatory work relating to the Commission and the Tribunal is completed.

3.105. The objective of the Ordinance is to curb possible anti-competitive conduct so as to maintain fair and sustainable competition in the market. It applies to "undertakings", defined as entities engaged in economic activity, regardless of their legal status or the way in which they are financed. However, the Ordinance exempts all statutory bodies (i.e. bodies established by law) from the application of its substantive provisions.[68] In addition, undertakings with turnover below specified thresholds are excluded from the application of certain provisions of the Ordinance (see paragraph 3.112 below). The latter exclusion was meant to address the concerns expressed by SMEs during the legislative process as well as the general public aspiration for an effective cross-sector competition law.[69]

[65] The concerns related mainly to the impact of the new law on the costs of doing business (particularly on SMEs) and to the volume of litigation, and the appropriate level of sanctions.

[66] Hess and Evrard (2012).

[67] Competition Ordinance (Commencement) Notice 2012.

[68] During the legislative process, the HKC Government indicated the intention to apply, by way of a separate regulation, the Competition Ordinance to six statutory bodies (out of 581): Ocean Park, the Matilda and War Memorial Hospital, the Federation of Hong Kong Industries, the General Committee of the Federation of Hong Kong Industries, Helena May, and Kadoorie Farm.

[69] Competition Policy Advisory Group, Report 2010-2011, (English version) provided by the HKC authorities.

3.106. Three types of anti-competitive conduct are prohibited under the Ordinance: (i) anti-competitive agreements, concerted practices, and decisions of an association of undertakings (known as the First Conduct Rule); (ii) abuse of market power (Second Conduct Rule); and (iii) mergers that are likely to substantially lessen competition, the prohibition of which is applicable only to the telecommunications sector (Merger Rule). The three rules are collectively referred to as the "competition rules".

3.107. The First Conduct Rule prohibits agreements, concerted practices, and decisions of an association of undertakings that have the object or effect of preventing, restricting or distorting competition in HKC, whether the conduct took place in HKC or abroad. The Rule makes a distinction between serious anti-competitive conduct (such as price fixing, market allocation, output control, and bid-rigging) and non-serious anti-competitive conduct. While both types of conduct are subject to the rule of reason analysis, different enforcement options to be pursued by the Commission apply (see paragraph 3.112 below). The First Conduct Rule will not apply to agreements that enhance overall economic efficiency, i.e. agreements that help to increase production or distribution, or promote technical or economic progress, provided that consumers are allowed a fair share of the resulting benefit and that the agreements do not go beyond what is necessary to reach such benefits and do not eliminate competition in respect of a substantial part of the relevant market. The Commission may issue block exemption orders excluding a certain category of agreements from the First Conduct Rule, if it considers that such agreements enhance economic efficiency. The Ordinance does not make any specific provision for vertical agreements; this is an area where further guidance from the Commission may be required.

3.108. The Second Conduct Rule forbids an undertaking with a "substantial degree of market power" from abusing its power by engaging in conduct that has the object or effect of preventing, restricting or distorting competition in HKC, whether the conduct took place in HKC or abroad. The Ordinance provides two examples of conduct that may constitute an abuse of market power: (i) predatory behaviour towards competitors, and (ii) limiting production, markets, or technical development to the prejudice of consumers. The Ordinance does not provide a definition of substantial market power, which generally requires at least a 40% market share, but it is deemed to imply a lower threshold than that associated with a dominant position. Factors to be considered in determining whether an undertaking has substantial market power include its market share, its power to make pricing decisions, and barriers to entry into the market. The Commission is expected to include its interpretation of substantial market power in its guidelines. There is no explicit efficiency exclusion regarding the Second Conduct Rule, but it is likely that undertakings with a substantial degree of market power may be able to present an objective justification to defend their case.

3.109. An unusual feature of the Ordinance is that it does not provide for cross-sector merger regulations. It applies only to mergers in the telecommunications sector. As already established in the Telecommunications Ordinance, the Merger Rule prohibits holders of telecommunications carrier licences from, directly or indirectly, carrying out a merger that has, or is likely to have the effect of substantially lessening competition in HKC. The rule applies whether the merger takes place in or outside HKC. No merger notification is required under the Competition Ordinance. Moreover, the Merger Rule will not apply to a merger if the economic efficiencies that arise or may arise outweigh the adverse effects caused by any lessening of competition in HKC.

3.110. The Competition Ordinance provides for a number of exemptions and exclusions[70] from the application of the conduct rules:

- HKC's Chief Executive in Council may exempt a specified agreement or conduct or a specified class of agreement or conduct from the First or Second Conduct Rule on "exceptional and compelling" public policy grounds or to avoid conflict between the Ordinance and an international obligation that directly or indirectly relates to HKC.

- The First and the Second Conduct Rules do not apply to: (i) an agreement or a conduct if it is made to comply with a legal requirement, or (ii) an undertaking entrusted by the HKC Government with the operation of services of general economic interest, insofar as the Conduct rules would obstruct the performance of the particular tasks assigned to it.

[70] The exemptions are provided for in Sections 31 and 32 of the Competition Ordinance, and the exclusions in Schedule 1.

- The First Conduct Rule does not apply to agreements that enhance economic efficiency, provided that certain conditions are met (see paragraph 3.107 above).

- The First Conduct Rule does not apply to an agreement, concerted practice, or decision of an association of undertakings if the combined annual turnover of the undertakings or association involved does not exceed HK$200 million[71] (some US$25.8 million[72]), except where the agreement, concerted practice or decision of an association of undertakings involves serious anti-competitive conduct.

- The Second Conduct Rule does not apply to the conduct of an undertaking whose annual turnover does not exceed HK$40 million (some US$5.2 million).

3.111. The Ordinance provides for a judicial enforcement system to separate the powers of investigation, prosecution, and adjudication. The main task of the recently established Commission is to investigate anti-competitive conduct and, where appropriate, bring proceedings before the Tribunal. The Commission may start an investigation either on its own initiative, on receipt of a complaint, or upon referral from the Government or a court. Its investigating powers include ordering the production of documents, requiring any person to attend before the Commission, entering and searching premises upon obtaining a court warrant. The Commission may also enter into leniency agreements with persons who have allegedly contravened the conduct rules. In exchange, these persons must cooperate with the Commission in its investigation or enforcement proceedings before the Tribunal. Other major tasks of the Commission are to issue regulatory guidelines as well as to promote public understanding of, and compliance with, the competition law.

3.112. The Commission has various enforcement options. If the alleged infringement is considered serious anti-competitive conduct under the First Conduct Rule, or a violation of the Second Conduct Rule, the Commission may bring proceedings directly before the Tribunal, or issue an "infringement notice" offering not to bring proceedings if the undertaking concerned makes a commitment to comply with the requirements of the notice. In the case of non-serious anti-competitive conduct under the First Conduct Rule, the Commission's must issue a "warning notice" requesting the undertaking to put an end to the relevant conduct. If the defendant fails to comply, the Commission may bring proceedings before the Tribunal. The Commission may apply for an interim order from the Tribunal, pending determination of a contravention of a competition rule. However, the Commission may not request payment from the infringing undertakings.[73] Only the Competition Tribunal is empowered to impose penalties and fines.

3.113. In the telecommunications sector, the Competition Commission has concurrent jurisdiction with the Communications Authority. The Competition Ordinance requires the two bodies to sign a memorandum of understanding on how they intend to exercise their shared jurisdiction.

3.114. The Competition Tribunal is a superior court with specialized jurisdiction on competition cases. It is responsible for hearing and adjudicating proceedings brought by the Commission and for reviews of the Commission's decisions. The Tribunal may impose a pecuniary penalty on any person who has contravened a competition rule. The penalty must not exceed 10% of the local turnover of the undertaking concerned, for each year of infringement up to a maximum of three years.[74] The Tribunal may grant a wide range of other remedies, such as ordering an undertaking to refrain from engaging in the infringing conduct; declaring an agreement to be void or voidable, or requiring the parties to modify or terminate an agreement; ordering the contravening party to pay damages to a person who has suffered loss or damage as a result of the contravention; and

[71] In the case of a decision of an association, the HK$200 million refers to the turnover of all the members of the association.
[72] At the exchange rate of US$1=HK$7.752 (8 May 2014).
[73] One of the concessions made during the legislative process to ensure support for the Bill was to remove a provision giving the Commission the right to require payment of up to HK$10 million to the Government when issuing an infringement notice. Competition Policy Advisory Group, Report 2010-2011 (English version).
[74] Initially, the Competition Bill provided for the cap on pecuniary penalty at 10% of the global turnover of the undertaking for each year of contravention. In order to strike a balance between maintaining a sufficient level of deterrence and keeping HKC's competitive edge in the region, the penalty cap was modified. Bills Committee on Competition Bill: Responses to Concerns on the Competition Bill, CB(1)91/11-12(01). Viewed at: http://www.legco.gov.hk/yr09-10/english/bc/bc12/papers/bc121025cb1-91-1-e.pdf.

disqualifying an individual from acting as a company director for up to five years. There are no criminal sanctions available under the Competition Ordinance. The Tribunal's determinations, decisions, and orders are subject to appeal before the Court of Appeal. At the time of writing, the HKC Judiciary was formulating the rules to prepare for the operation of the Tribunal.

3.115. The right to bring private lawsuits before the Tribunal is limited to persons who have suffered loss or damage as a result of any act determined to be a contravention of a conduct rule (follow-on actions). The limit for follow-on actions is three years.[75]

3.116. Pending the full operation of the Commission and the Tribunal, the existing Competition Policy Advisory Group (COMPAG) has continued to review competition-related complaints, referring them to the appropriate departments and bureaux for follow-up action.[76] Between 2010 and 2013, a total of 15 cases were brought to the attention of COMPAG, relating to alleged anti-competitive conduct such as collusion, price fixing, market allocation, abuse of dominant position, and certain government practices (e.g., relating to tenders). The complaints covered a range of industry sectors such as TV and broadcasting (including pay and free TV services), mobile telephony, the exhibition industry, market management and food stalls, bus transport services, the medical profession, supermarket and retail stores chains, and the property management industry. In some instances, the complaints were made against the practices of certain statutory bodies. In ten cases, the complaints were not substantiated or not established, in one case the investigation was terminated because there was no evidence of a competition concern, four cases were still under investigation by the end of 2013, and another was under appeal.[77]

3.117. The enactment of the Competition Ordinance reflects the Administration's commitment to curb potential anti-competitive conduct in HKC, and should contribute to levelling the playing field for businesses. It also brings HKC's regulatory framework closer to international competition law, although there is substantial preparatory work to be done by the Government, the Commission, and the Judiciary to bring the Ordinance into full operation. The Administration has indicated that it will review the Competition Ordinance a few years after it has been in full effect, taking account of the experience acquired and issues encountered in its operation.

3.4.2.2 Price controls

3.118. Generally, HKC does not impose price controls on goods or services. However, the prices of some energy products are monitored (Chapter 4.3), and the fees for the provision of pilotage services in ports are set by the Director of the Marine Department, after consultation with the relevant stakeholders.[78] In 2012, all pilotage dues were revised upwards to adapt them to changes in the market environment. The basic pilotage due was increased from HK$4,100 to HK$4,400.[79]

3.4.3 State trading and state-owned enterprises

3.119. Hong Kong, China has notified the WTO that it does not maintain state-trading enterprises in accordance with the working definition of such enterprises in Paragraph 1 of the Understanding on the Interpretation of Article XVII.[80]

3.120. As one of the most open economies in the world, HKC is largely free from government intervention. Nevertheless, the Government maintains an important promoting role in certain key sectors (notably transport services and infrastructure, and science and technology infrastructure) through its financial participation in several enterprises (Table 3.9). Since the previous Review of HKC, the only change reported in this respect was that the HKC Government disposed of its entire shareholding in Tradelink Electronic Commerce Limited in October 2012.

[75] During the legislative process, SMEs expressed concerns that a stand-alone right of private action might be used by large companies to harass small businesses and result in a flood of litigation.
[76] COMPAG was created in 1997 to provide a dedicated forum for examining, reviewing, and advising on competition-related issues. It does not have statutory power to conduct investigations or impose sanctions.
[77] COMPAG Reports for 2009-2010 to 2012-2013 (English version), provided by the HKC authorities.
[78] Section 22 of the Pilotage Ordinance (Chapter 84).
[79] Increases were also made to the additional pilotage due and the due for cancellation of engagement (Pilotage (Dues) (Amendment) Order 2011, published in the *Gazette* on 9 December 2011).
[80] WTO document G/STR/N/14/HKG, 23 February 2012.

Table 3.9 Enterprises in which the Government has financial stakes, January 2014

Company	Government shareholding (%)
Airport Authority (AA)	100.0
Hong Kong Cyberport Development Holdings Limited	100.0
Hong Kong Science and Technology Parks Corporation (HKSTPC)	100.0
Kowloon-Canton Railway Corporation (KCRC)	100.0
IEC Holdings Ltd.	88.2
MTR Corporation Limited (MTRCL)	76.5
Hong Kong International Theme Parks Limited (HKITP)	52.4
West Rail Property Development Limited (WRPDL)	49.0
New Hong Kong Tunnel Company Ltd.	7.5
Hong Kong Exchanges and Clearing Ltd. (HKEx)	5.8

Source: Treasury online information, "Accounts of the Government for the year ended 31 March 2013". Viewed at: http://www.try.gov.hk/internet/eharch_annu_statend13.html#p.

3.4.4 Government procurement

3.121. Reflecting HKC's laissez-faire approach to economic activities, the share of government procurement to GDP remains relatively modest. It ranged from 3.9% to 5.8% during 2010-13 (Table 3.10). In 2013, procurement by the HKC Government and other public entities of goods, services, and construction services above specified thresholds amounted to HK$122 billion. Over 82% of goods purchased in 2013 were imported.[81]

3.122. Hong Kong, China joined the WTO Agreement on Government Procurement (GPA) in 1997, and was one of the first Members to ratify the 2012 Protocol amending the GPA.[82] HKC improved its commitments under the revised GPA by including two further government entities and six additional services in its schedule.[83] Upon its entry into force, in respect of HKC, the revised GPA will apply to: (i) 63 central government entities for contracts of goods and specified services of a value not less than SDR 130,000[84], and for contracts of construction services of a value not less than SDR 5,000,000; and (ii) five non-government public bodies for contracts of goods and services of a value not less than SDR 400,000[85], and for contracts of construction services of a value not less than SDR 5,000,000. Hong Kong, China has regularly notified to the WTO Committee on Government Procurement the national currency equivalences of the thresholds of the GPA[86], as well as the statistical reports required by the agreement.[87]

Table 3.10 Government procurement, 2010-13

(HK$ million and %)

	Central government entities[a]	Other entities[b]	Total[c]	Ratio to GDP
Total 2010	**38,246.40**	**44,977.41**	**83,223.81**	**4.76**
Goods	3,432.00	5,003.16	8,435.16	
Services (other than construction)	1,062.80	2,290.85	3,353.65	
Construction services	33,751.59	37,683.41	71,435.00	
Total 2011	**34,596.92**	**38,845.81**	**73,442.73**	**3.88**
Goods	4,759.79	5,914.78	10,674.57	

[81] Information provided by the HKC authorities.

[82] WTO document GPA/113, 2 April 2012.

[83] The Chief Executive's Office, and the Secretariat Commissioner on Interception of Communications and Surveillance; and telecommunications services, services incidental to forestry and logging, services incidental to mining, sanitation and similar services, cleaning services of exhaust gases, and nature and landscape protection services.

[84] Specified services are listed in Annex 5 of the "Final Appendix I Offer of Hong Kong, China", WTO document GPA/113, 2 April 2012.

[85] The Airport Authority, the Hospital Authority, the Housing Authority and Housing Department, the Kowloon-Canton Railway Corporation, and the MTR Corporation Limited.

[86] HKC's local currency thresholds for the calendar years 2014 and 2015 are contained in WTO document GPA/W/325, 9 December 2013 (SDR 130,000=HK$1,541,000; SDR 400,000=HK$4,740,000; and SDR 5,000,000=HK$59,256,000).

[87] HKC's procurement statistics for 2012 were notified in WTO document GPA/119/Add.2, 26 November 2013 (the latest notification at the time of writing this report).

	Central government entities[a]	Other entities[b]	Total[c]	Ratio to GDP
Services (other than construction)	1,389.66	2,813.37	4,203.03	
Construction services	28,447.48	30,117.66	58,565.13	
Total 2012	**48,800.34**	**63,231.54**	**112,031.88**	**5.49**
Goods	4,235.76	13,631.26	17,867.01	
Services (other than construction)	1,465.70	7,049.19	8,514.89	
Construction services	43,098.88	42,551.09	85,649.98	
Total 2013	**71,855.45**	**50,151.01**	**122,006.46**	**5.75**
Goods	4,948.20	8,945.64	13,893.84	
Services (other than construction)	2,816.57	4,281.01	7,097.58	
Construction services	64,090.68	36,924.36	101,015.04	

a For central government entities, statistics include only procurement of goods and services of a value exceeding HK$1.43 million, and construction services of a value exceeding HK$4 million.
b For other entities, statistics include only procurement of goods and services of a value exceeding SDR 0.4 million (approximately HK$4.85 million in 2010-11 and HK$4.84 million in 2012-13), and construction services of a value exceeding SDR 5 million (approximately HK$60.65 million in 2010-11 and HK$60.46 million in 2012-13).
c There may be a slight discrepancy between the sum of individual items and the totals due to rounding.

Source: Information provided by the HKC authorities.

3.123. Hong Kong, China has endorsed APEC's Transparency Standards on Government Procurement. In 2010, it signed a closer economic partnership agreement with New Zealand, which, among other disciplines, includes commitments on both parties to open up their government procurement markets.[88] The agreement entered into effect on 1 January 2011.

3.124. Government procurement in HKC is guided by the twin policy objectives of achieving best value for money and open and fair competition. Moreover, the basic principles underpinning government procurement are public accountability, value for money, transparency, and open and fair competition. According to the policy statement in the Financial Services and Treasury Bureau (FSTB) website, the authorities are committed to providing equal opportunities for domestic and foreign suppliers and service providers, participating or competing in government procurement.[89]

3.125. The procedures for government procurement are set out in the Stores and Procurement Regulations (SPR), issued under the Public Finance Ordinance, and supplemented by financial circulars. The SPR govern all steps of the procurement process and apply to stores purchased or acquired on behalf of the Government (excluding land and buildings) and services performed by contractors for or on behalf of the Government, including construction and engineering services.

3.126. The Government Logistics Department (GLD) is the central procurement agency. It purchases through bulk contracts a wide range of items commonly used by most HKC government entities. GLD is also the purchasing agent for specific goods and equipment required by user departments and a few non-government organizations. GLD provides user departments with expertise in sourcing, tendering, negotiations, and contract administration. Construction services are mainly procured by individual work departments that operate under the supervision of the Development Bureau. The latter provides general guidance and technical advice on tendering procedures and contract administration with respect to works contracts, and keeps a register of approved works contractors and a performance reporting system.

3.127. The SPR allow for three types of tendering procedures: open tendering, selective tendering, and restrictive tendering (including single tendering). Government procurement of a value exceeding HK$1.43 million (for goods and general services) and HK$4 million (for construction and engineering services) is generally subject to open and competitive tendering procedures so as to achieve best value for money. Invitations to tender are published in the *Government Gazette*[90], and if considered appropriate, in the local press, on the internet and/or in

[88] Chapter 12 of the partnership agreement contains HKC commitments on government procurement.
[89] Financial Services and Treasury Bureau, Treasury Branch online information. Viewed at: http://www.fstb.gov.hk/tn/en/guide-to-procurement.htm.
[90] Government Gazettes are also accessible online.

selected overseas journals for the particular trade/product. The tender notice must specify whether the intended procurement is covered by the WTO GPA.

3.128. Selective tendering may be used when the nature of a contract (e.g. demanding high-tech skills, proven reliability, or time-critical) requires that tenders be invited from pre-qualified suppliers/contractors on the approved lists. The qualification criteria and assessment method must not discriminate among foreign suppliers/contractors or between domestic and foreign suppliers/contractors. For procurements covered by the GPA, tenders from non-prequalified suppliers/contractors will be considered unless there are exceptional circumstances; and the qualification criteria are limited to those essential to ensure that the suppliers/contractors are able to provide the services or goods. Updates of the lists of prequalified suppliers/contractors, their period of validity, the method of application and assessment, and the means for renewal or termination, where applicable, must be posted on the internet homepage of the procuring bureau/department. Invitations for prequalification are published in the *Government Gazette*. If necessary, the invitation may also be published on the internet, in the local press, and selected overseas journals for the particular trade or product. New applications for admission to the prequalification lists are allowed at any time and must be dealt with expeditiously.[91]

3.129. Restricted and single tendering ("limited tendering" under the GPA) are only allowed under specified, exceptional circumstances that do not permit open tendering, for example, on grounds of extreme urgency, in order to protect intellectual property rights, or to meet interchangeability and interoperability requirements with previously procured equipment, software, services or installations. Invitations to tender are sent to one or a few suppliers/contractors approved by the Permanent Secretary of the FSTB or the Director of the GLD.

3.130. During 2010-13, a total of 1,680 government procurement contracts (above the thresholds specified in the SPR) were awarded, of which 68% through open tender procedures 26% through selective tendering, and 6% through restricted or single tendering (Table 3.11).

3.131. In its 2012 review of the GLD's procurement and supplies services, the Audit Commission recommended the GLD Director to establish procedures to monitor user bureaux and departments' repeated requests for procuring stores of similar nature by quotation, and to advise those with procurement requirements exceeding HK$1.43 million to adopt tender procedures for the bulk purchase of those stores.[92] This suggests that some fragmentation of contracts under the SPR threshold may have taken place. The Commission also recommended exploring ways to shorten the time required to complete the tender exercises.

Table 3.11 Government procurement contracts awarded by type of procedure[a], 2010-13

	2010	2011	2012	2013
Contracts awarded	400	327	462	491
Open tender	268	223	321	336
Selective tender	114	77	117	127
Restricted tender (including single tender)	18	27	24	28
Complaints by suppliers, contractors or consulting firms[b]	2	9	5	6

a The statistics cover only procurement of goods and services of a value exceeding HK$1.43 million, and construction services of a value exceeding HK$4 million.
b Complaints submitted to the relevant tender board, the Office of the Ombudsman, or the Independent Review Body on Bid Challenges.

Source: Information provided by the HKC authorities.

3.132. Tender documents must provide all necessary information to assist bidders to prepare their tenders. The characteristics/specifications of the products or services to be procured must be based on functional and performance requirements and, where practicable, on international standards. They must not be drawn up to suit a particular brand or country of origin. Generally, at least three weeks are allowed for submission of bids, and for procurements covered by the GPA, at least 40 days are allowed for receipt of tenders and no less than 25 days for applications to be prequalified to tender.

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[91] ADB/OECD Anti-Corruption Initiative for Asia and the Pacific (undated).
[92] Audit Commission (2012).

3.133. Under the SPR, tenders are examined against the conditions and specifications laid down in the tender document. Award of a contract is based on the result of the evaluation process. Value for money is a key procurement principle, and it takes into account not only price competitiveness but also compliance with users' requirements, reliability of performance, qualitative superiority, time of delivery/completion, whole-life costs and after sale support, where applicable. The procuring entity must recommend the most advantageous tender, and submit its recommendation to the relevant tender board or departmental tender committee for approval.

3.134. The tender boards and committees authorized to consider and decide on tenders are:

- the Central Tender Board, which considers high value tenders, i.e. exceeding HK$15 million for goods and general services, and HK$30 million for construction services;
- the Government Logistics Department Tender Board, which deals with tenders whose value is between HK$5 million and HK$15 million;
- the Public Works Tender Board, responsible for deciding on tenders for works and related contracts not exceeding HK$30 million; and
- departmental tender committees of departments and bureaux, which have the authority to deal with their own tenders (other than contracts for construction and engineering works), provided their value does not exceed HK$5 million.

3.135. The result of the tender, including the name of the successful bidder, the accepted tender sum and the month of the award of the contract, is published on the homepage of the GLD or the procuring entity. Unsuccessful bidders are informed of the outcome of the bid evaluation and, upon request, of the reasons why their tenders were unsuccessful.

3.136. Several review mechanisms ensure due process and accountability, including the Audit Commission, the Office of the Ombudsman, the Legislative Council, and the Independent Commission Against Corruption. The Review Body on Bid Challenges handles complaints regarding alleged breaches of the GPA.

3.137. The SPR set out the procedures to handle procurement-related complaints. There is no time-limit for a supplier to submit a complaint. Any aggrieved supplier/contractor may lodge a complaint about the process or result of a tender directly with the procurement entity, or the relevant tender board, the Office of the Ombudsman, or the Review Body on Bid Challenges. In the latter case, a challenge must be lodged within ten working days after the supplier/contractor knew or reasonably should have known the basis of the challenge. All complaints must be handled in an impartial and timely manner, and an early and substantial reply given to the complainant.

3.138. The resolution of a complaint may lead to a change in the procurement policy and/or the application of sanctions to the relevant procurement officer. For procurement covered under the GPA, the Review Body may recommend a remedy in the form of corrective measures or compensation, which is limited to the cost for tender preparation or protest.[93] Between 2010 and 2013, 22 procurement-related complaints were submitted to the relevant tender board, the Office of the Ombudsman, or the Review Body on Bid Challenges (Table 3.11). Complaints regarding alleged corruption are submitted to the Independent Commission against Corruption.

3.4.5 Intellectual property rights

3.4.5.1 Legislation

3.139. HKC maintains an independent and comprehensive legal framework for the protection of intellectual property rights (IPRs). Protected IPRs include patents, plant varieties, trade marks, designs, copyrights, layout-designs of integrated circuits, geographical indications and undisclosed

[93] For an analysis of the works and jurisprudence of the HKC Review Body on Bid Challenges, see Gao (2013).

information[94] (Table 3.12). The HKC Government recognizes a number of international intellectual property treaties, conventions, and agreements[95], and is a signatory of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).

Table 3.12 Framework protecting some intellectual property rights, 2014

IPRs	Eligibility of protection	Length of protection
Patents		
Standard patent	Inventions that are new, involve an inventive step and susceptible of industrial application. Grant of a standard patent is based on re-registration of the corresponding patent already granted by the State Intellectual Property Office of the People's Republic of China; the European Patent Office (designating the UK); or the United Kingdom Patent Office	20 years from the filing date
Short-term patent	Inventions that are new, involve an inventive step and susceptible of industrial application	8 years from the filing date
Trade marks		
Registered trade marks	Marks that are capable of distinguishing the goods or services of one undertaking from those of other undertakings; there are absolute and relative grounds for refusal of registration	10 years from the filing date of the application for registration; may be renewed indefinitely for periods of 10 years
Industrial designs		
Registered industrial designs	Designs that are new and applied to an article the appearance of which is material	Renewable for periods of 5 years up to a maximum of 25 years
Copyright		
Unregistered industrial designs	Protected under the Copyright Ordinance, for articles produced from the original design drawing. Protection is automatic	15 years from first marketing of the article
Copyrights in original literary (including computer programs), dramatic, musical, and artistic works; sound recordings, films, broadcasts, cable programmes; typographical arrangement of published editions of literary, dramatic or musical works; performers and persons who have exclusive recording contracts with performers	No formalities are required for copyright protection for a work in HKC. Works of authors from anywhere in the world, or works first published anywhere in the world (including those made available to the public on the internet), also qualify	Protection usually extends for 50 years after the death of the creator or from the end of the year in which the work was made Exceptions: (1) Protection for the typographical arrangement of published editions of literary, dramatic or musical works is for 25 years from the end of the year in which the edition was first published (2) Government copyright is protected for 125 years from the end of the year in which the work was made

[94] HKC's IP legislation is based on Articles 139 and 140 of the Basic Law, and includes: the Patents Ordinance (Chapter 514), the Trade Marks Ordinance (Chapter 559), the Trade Descriptions Ordinance (Chapter 362), the Copyright Ordinance (Chapter 528), the Prevention of Copyright Piracy Ordinance (Chapter 544), the Registered Designs Ordinance (Chapter 522), the Plant Varieties Protection Ordinance (Chapter 490), the Layout- Design (Topography) of Integrated Circuits Ordinance (Chapter 445). Trade secrets and undisclosed commercial information are protected by the common law of confidence.

[95] The main international IP conventions applied to HKC by the People's Republic of China are: 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 Nice Agreement concerning the International Classification of Goods and Services for the purposes of the Registration of Marks, the Geneva Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms, the Patent Cooperation Treaty, the Convention establishing the World Intellectual Property Organization (WIPO), the WIPO Copyright Treaty, and the WIPO Performances and Phonograms Treaty.

IPRs	Eligibility of protection	Length of protection
Other IPRs		
Geographical indications (GIs)	Same as for registered trade marks but only registrable as collective or certification trade marks. The use of a false geographical indication applied to goods in a fashion calculated to mislead consumers may be a criminal offence under the Trade Descriptions Ordinance	Same as for registered trade marks
Plant varieties	Proprietary rights of plant breeders, or the owners of the variety, over cultivated plant varieties they have bred or discovered and developed	25 years for trees and vines, and 20 years in other cases
Layout-designs (topographies) of integrated circuits	Layout-designs (topographies) that are original	Where the layout-design has been commercially exploited with the owner's consent, 10 years after the end of the year in which it was first exploited. Otherwise, 15 years after the end of the year in which it was created
Trade secrets and undisclosed information	Information disclosed to a person who is under a duty to keep it confidential, including confidential information in a commercial setting, such as formulae, methods, technologies, designs, product specifications, business plans, and client lists	Until the information becomes public knowledge

Source: Information provided by the authorities.

3.140. There were no fundamental changes to HKC's legal framework protecting intellectual property during the review period (Table A3.6). The latest HKC notifications to the WTO regarding IP legislation mainly refer to amendments to update the membership coverage of international conventions.[96] However, there have been some important initiatives to amend the legislation on copyrights and patents, as well as the introduction of new practices, such as the IPRs trading platform (section 3.4.5.1.4).

3.4.5.1.1 Copyright law

3.141. Copyright law is principally governed by the Copyright Ordinance of 1997 (Chapter 528), which was significantly amended in 2007 and 2009.[97] One of the main amendments that took effect during the review period (July 2010) was the introduction of criminal sanctions against unauthorized copying or distribution of infringing copies of certain printed works on a regular or frequent basis in the course of business, to an extent in excess of prescribed numeric limits, that results in a financial loss to the copyright owner.

3.142. After extensive public consultations to amend the copyright law to enhance protection in the digital environment, the Copyright (Amendment) Bill 2011 was submitted to the Legislative Council (LegCo) in June 2011. Among the proposed amendments were the recognition of copyright owners' exclusive right to communicate their works through any mode of electronic transmission and the introduction of criminal liability for the electronic communication of copyright works; a safe harbour for online service providers (OSPs), underpinned by a Code of Practices for OSPs; and additional factors to assist the courts in considering the award of damages in civil proceedings pertaining to online infringement.[98] However, due to a very tight legislative agenda, it was not possible for the LegCo to have a second reading of the Bill before the expiration of its term. A new Bill introduced in June 2014, includes the aforementioned amendments as well as new provisions regarding the treatment of parodies on the internet.

[96] The latest notifications are contained in WTO documents IP/N/1/HKG/22, 2 September 2010, and IP/N/1/HKG/23, 30 April 2014.

[97] See WTO (2011).

[98] Legislative Council Brief, Copyright Ordinance (Chapter 528), Copyright (Amendment) Bill 2011. Viewed at: http://www.C&EDb.gov.hk/citb/doc/en/legcoBriefs/LegCo_Brief_Copyright_Amendment_Bill_2011.pdf.

3.4.5.1.2 Patent law

3.143. Patent law is principally governed by the Patents Ordinance of 1997 (Chapter 514). Only minor amendments were made to the Ordinance during the review period (in 2010 and 2013) (Table A3.6).

3.144. Two types of patents are granted in HKC, standard patents and short-term patents. Standard patents are granted based on the re-registration of corresponding patents already granted by one of the three "designated patent offices", i.e. the patent offices of the People's Republic of China, the United Kingdom or the European Patent Office (designating the UK). An application for a standard patent may also be based on an international application under the Patent Cooperation Treaty (PCT) that has been published and entered its national phase in one of the designated patent offices. Standard patents are granted subject to formality examination; no substantive examination is carried out.

3.145. Short-term patents are granted to protect products or processes with a short commercial life. An application for a short-term patent may be filed directly with HKC's Patents Registry based on a search report from an international searching authority or one of the three designated patent offices (i.e. no prior application elsewhere is needed). It may also be based on an international patent application for a utility model, designating Mainland China under the PCT that has entered its national phase in Mainland China. There is also no substantive examination of an application for a short-term patent.

3.146. Both standard patents and short-term patents are enforceable in HKC courts. Patent owners may take civil action to prevent infringement of their rights and seek remedies such as injunctions, orders for delivery, damages, or an account of profits made by the infringing party.

3.147. In order to keep the patent system up-to-date and facilitate the development of Hong Kong, China as a regional innovation and technology hub, in October 2011 the HKC Government conducted a public consultation on the review of the patent regime and appointed a committee to provide advice on relevant issues. In February 2013, the Government endorsed the recommendations made by the committee, and announced the way forward for the development of the patent system in HKC[99]:

- introduce an original grant patent (OGP) system with substantive examination outsourced to other patent offices in the beginning, while keeping the existing re-registration system for grant of standard patents.

- retain the short-term patent system, but with certain refinements such as introducing substantive examination into the system as a pre-requisite to commence infringement proceedings and requiring the short-term patentee to disclose full particulars about the patent (i.e. documentation, research report, etc.) to the person to whom the threat of infringement is made.

- develop a full-fledged regulatory regime for patent agency services in the long-run to be achieved in stages, with possible transitional measures.

3.148. The committee report recommended that HKC should have its own OGP system so that patentees may apply for an HKC standard patent without having to first file an application in any of the designated patent offices. This will benefit persons interested primarily in a local patent. Introduction of substantive examination for short-term patents, as a pre-condition to commencement of infringement procedures should help reduce the risk of groundless threats of infringement, while development of a regulatory regime for patent services should contribute to the overall professionalization of the patent profession.[100] The HKC Government is engaged in the implementation plan with a view to launching the OGP and the refined short-term patent systems in 2016/17 at the earliest.

[99] Legislative Council Panel on Commerce and Industry, Review of the Patent System in Hong Kong, China, 19 February 2013. Viewed at: http://www.legco.gov.hk/yr12-13/english/panels/ci/papers/ci0219cb1-534-5-e.pdf.
[100] Lin (2013).

3.149. As part of these efforts, HKC's Intellectual Property Department (IPD) signed a cooperation arrangement on patents with the State Intellectual Property Office (SIPO) of Mainland China, on 6 December 2013. Under the arrangement, SIPO will provide technical assistance and support to the IPD for substantive examination of patent applications and the training of staff.

3.150. Under the Patents Ordinance, compulsory licences for standard patents may be allowed on limited grounds, including where the patented invention is not being commercially worked in HKC, or where the demand for a patented product is not being met on reasonable terms, for example, through imports. Government use of a patented invention is allowed during a period of extreme urgency declared by the Chief Executive, and the proprietor must be compensated. Prior to the present Trade Policy Review, HKC amended its legislation to implement the WTO "Paragraph 6 system" enabling it to grant compulsory licences for exports of pharmaceutical products to WTO Members with no or insufficient capacity to manufacture the patented products. Import compulsory licences for these products may only be granted during a period of extreme urgency. No compulsory licences have ever been issued.

3.151. Under the free-trade agreement signed with the member states of the European Free Trade Association, in June 2011, HKC committed to comply with data protection exclusivity for "originator" pharmaceutical products and their clinical data. This means that the Department of Health will not approve the registration of a generic product that involves using clinical data of the originator product for a specified period (presently eight years from the registration of the originator product in HKC), unless the applicant provides its own clinical data to substantiate the safety and efficacy of the generic product.[101] The authorities indicated that HKC grants exclusivity data protection to originator pharmaceutical products and their clinical data on an *erga omnes* basis.

3.4.5.1.3 Parallel imports

3.152. The Copyright Ordinance prohibits parallel importation of a copyright work or use of parallel imported copies for the purpose of dealing in (selling, letting for hiring, offering for sale or hire, or distributing for profit), and playing or showing the works to the public, if the copies concerned are movies, TV dramas or musical (sound or visual) recordings.[102] Any of these acts is liable to both civil and criminal sanctions within 15 months (shortened from 18 months in 2007) following the work's first publication anywhere in the world. Where the work has been published for more than 15 months, civil liability will continue to apply. There are no restrictions on parallel imports of computer software products, including for commercial dealings, except if the principal attraction of the product involves musical sound or visual recordings, movies, TV dramas, e-books, or a combination of them. As for other types of copyright works, there are generally no restrictions for end-users to import or possess parallel imported copies, whether for personal or business use.[103] Parallel imports of trademarked goods are permissible, unless the goods have been impaired or changed and the distinctive character or reputation of the mark is adversely affected. The Patents Ordinance expressly provides that proprietor of a patent for a product or process has the exclusive right to import a patented product or a product made with a patented process.

3.4.5.1.4 IP trading

3.153. Hong Kong, China is seeking to capitalise on the increasing global and regional demand for IP, as well as on its geographical position and sound legal and institutional framework, to become an IP trading hub. It is already a regional market for copyright trading, licensing, and franchising, with many companies offering IP-related services (e.g. IP brokering, valuation, financing, consultancy, and legal services), and a number of online services for IP trading matching.

3.154. In March 2013, the Government established a Working Group on IP trading, led by the Secretary for Commerce and Economic Development, to advise on strategies to enhance the development of HKC as an IP trading hub, and on policy and support measures to facilitate IP

[101] See Guidance Notes on Registration of Pharmaceutical Products/Substances. Viewed at: http://www.drugoffice.gov.hk/eps/do/en/level.html.

[102] Except when the playing or showing in public is by an educational establishment for the educational purposes of the establishment or by a specified library for use of the library.

[103] The prohibition against parallel imports of copyright works by business end-users was relaxed in 2007.

trading. In November 2013, the Working Group endorsed a strategic framework that covers four strategic areas: enhancing the IP protection regime; supporting IP creation and exploitation; fostering IP intermediary services and manpower capacity; and pursuing promotion, education, and external collaboration efforts.[104] The Working Group will explore specific policies and support measures under each strategic area. In addition, an online IP trading portal was launched by the Hong Kong Trade Development Council in December 2013.

3.4.5.2 Enforcement

3.155. The institutional framework for the enforcement of IPRs comprises the Intellectual Property Department (IPD) and the Customs and Excise Department (C&ED). The IPD is responsible for advising the Secretary for Commerce and Economic Development on IP policy and legislation; operating HKC registries for patents, designs, trade marks, and copyright licensing bodies; and promoting public awareness of the importance of IPR protection, mainly through educational programmes and publicity campaigns (e.g. the "No Fakes Pledge" campaign). The IPD is also HKC's WTO contact point on IPRs matters.

3.156. The C&ED is responsible for enforcing the criminal aspects of IPR infringement, by investigating and prosecuting copyright and trade mark offences, and false trade descriptions. The C&ED has ample investigative and seizure powers, and cooperates with overseas enforcement authorities as well as the private sector. The C&ED fights against piracy and counterfeiting activities, including manufacture, storage, retail, import and export of infringing goods and the use of pirated software and copyright works by companies in running their business. In order to combat online piracy, the C&ED has established anti-internet-piracy teams, whose work is supplemented by the Customs Computer Forensic Laboratory and the Computer Analysis and Response Team, which assists in collecting and analysing digital evidence. The C&ED has seconded an officer to the INTERPOL's Trafficking in Illicit Goods and Counterfeiting Sub-Directorate since 2011, to strengthen international cooperation.

3.157. Under the Prevention of Copyright Piracy Ordinance, local optical disc and stamper manufacturers require licences from the C&ED and must mark identification codes on all their products. The C&ED may also take enforcement action against commercial goods with forged trade marks or false trade descriptions under the Trade Descriptions Ordinance (Chap. 362).

3.158. The C&ED promotes awareness of IPRs through a number of schemes such as the Youth Ambassador Against Internet Piracy (to fight online piracy), the E-auctioning with Integrity (to prevent online auctioning of counterfeit goods, in collaboration with auction sites and IPR owners), and several schemes that reward informers for information leading to the seizure of pirated or counterfeit goods. The C&ED manages the Intellectual Property Rights Protection Alliance, a platform to strengthen strategic partnership with IPR owners to monitor infringements and improve protection.

3.159. Both the IPD and the C&ED have gained international recognition for their actions to improve IPRs awareness and enforcement in HKC, and for their close collaboration with the private sector.[105] For example, the C&ED won the Global Anti-Counterfeiting Award 2014 presented by the Global Anti-Counterfeiting Group (GACG), in recognition of its outstanding achievement in combating counterfeiting and piracy.[106]

3.160. C&ED statistics show that the number of cases relating to IPR offences is in general on a downward trend. Officials indicated that the surge of trade mark and trade description cases in 2013 was due to stepped-up enforcement against online infringements (Table 3.13). For more details on the types of penalties imposed (prison sentences and fines), see Table A3.7.

[104] Government of HKC, "Overall strategic framework formulated to promote Hong Kong as regional IP trading hub", 22 November 2013. Viewed at: http://www.info.gov.hk/gia/general/201311/22/P201311220572.htm.

[105] See, for example, joint report by European Chamber of Commerce in Hong Kong, KPMG, Mayer Brown JSM and TNS (2013).

[106] GACG is an informal network of national and regional IP protection and enforcement organizations (22 members covering nearly 40 countries), whose objective is to exchange information, participate in joint activities and cooperate in the resolution of specific IP problems in their respective national or regional areas.

Table 3.13 Customs and Excise Department: cases, seizures, and arrests, 2010-13

	2010	2011	2012	2013
Copyright				
No. of cases	610	323	116	99
Persons arrested	532	436	166	143
Value of seizure (HK$ million)	26	32	7	9
Trade mark and trade descriptions				
No. of cases	947	647	533	752
- Online infringement cases	47	46	56	157
Persons arrested	832	543	506	663
Value of seizure (HK$ million)	173	197	158	146

Source: Customs and Excise Department (C&ED). Viewed at: http://www.customs.gov.hk/filemanager/common/pdf/statistics/enforcement_cases_en.pdf.

3.161. IPR infringement through the internet has taken on an increasingly transnational dimension, posing new challenges to IPR enforcers globally, including the C&ED. This is the case of the operations of cyberlockers[107], and the use of set-top boxes for the illegal transmission of copyright works. The C&ED has taken strong action against these activities. In January 2012, in cooperation with the U.S. authorities, the C&ED smashed an international cyberlocker syndicate and restrained over HK$335 million worth of crime proceeds. Also, in June 2014, in cooperation with a copyright owner, the C&ED detected and smashed a syndicate circumventing paid channels by uploading the channels to overseas servers for transmission to set-top boxes through the internet.[108] The C&ED has indicated that it will continue to monitor the situation and work closely with copyright owners to detect and combat infringing activities. On the other hand, the growth of e-commerce, in particular trading through online auction sales, has led to higher volumes of counterfeit products being shipped in smaller quantities in the form of postal packages, representing another new challenge to intelligence and enforcements efforts.

3.162. Inevitably, IPR infringing items may be transhipped through HKC along with the vast majority of legitimate goods. The C&ED has developed partnership arrangements with major courier service providers and the Hong Kong Post to facilitate enforcement actions on suspicious parcels. It has also maintained close cooperation with overseas enforcement authorities to exchange intelligence, and mount parallel and joint operations.[109] In addition, the C&ED has participated in operations coordinated by international organizations, such as Operation "Pangea" by the WCO, Operation "Short Circuit" by APEC, Operation "Hurricane" by INTERPOL, and Operation "In-Our-Sites" with the U.S. IPR Centre and EUROPOL.

3.163. The C&ED has developed and launched three systems (Lineament Monitoring Systems) for monitoring and tracing infringement on the internet with a view to strengthening enforcement capabilities and 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. According to the HKC authorities, the significant increase in the detection of internet cases in 2013 indicates the effectiveness in deploying enforcement technologies to fight crime. In February 2013, the C&ED established the Electronic Crime Investigation Centre (ECIC) to undertake research and development into the latest technologies, formulate online investigation procedures, and conduct training courses for front-line enforcement officers.

3.164. In April 2014, the C&ED established the Electronic Recordation and Triage Centre (ERTC), which has helped right holders, especially those based outside HKC, to complete recordation of their copyrights and trade marks and conduct preliminary examination of the offending goods

[107] A type of internet hosting service that allows users to upload one or more files from their hard drives (or from a remote location) onto the one-click host's server, which then others can download. File hosting services can be used to distribute or share files without the consent of the copyright owner.

[108] According to the C&ED, most set-top boxes are connected to servers outside HKC, and different models of set-top boxes have different operation systems, so whether the act of using a set-top-box is criminally liable needs to be assessed on a case-by-case basis taking into account its overall circumstances.

[109] C&ED has indicated that controlled delivery operations have been conducted with U.S. Immigration and Customs Enforcement with regard to counterfeit medicines contained in parcels being delivered to the United States.

without having to visit Customs offices in person. Hence, the ERTC helps right owners save travel costs while improving the enforcement effectiveness.

3.165. Using an innovative enforcement approach, developing new technologies, sharing intelligence, and maintaining cooperation with stakeholders are key aspects in the fight against IPRs infringing activities, in the physical market and the rapidly changing digital environment. Legislative proposals currently being formulated by the HKC Government to update and enhance the copyright regime may also facilitate enforcement of IPRs in the digital environment.

4 TRADE POLICIES BY SECTOR

4.1 Overview

4.1. The contribution of the agricultural and fisheries sector to the economy is very modest, representing only 0.1% of GDP. Government intervention in the sector is minimal, focusing on the provision of basic infrastructure, extension services, and loan facilities. Licences for imports and exports of rice remain in place, as well as a mandatory reserve-stock to cope with short-term shortages. Most rice imports come from Thailand and Viet Nam. Amendments to the Fisheries Protection Ordinance in 2012 included measures to further enhance the conservation and management of fisheries resources.

4.2. HKC is a net importer of energy. The Government considers that the private sector is best placed to supply local energy requirements in response to market demands. There have been no significant policy or market structure changes in this sector. Five companies operate in the market of refined oil products, three of which are foreign companies; whereas in the electricity market two local companies hold *de facto* territorial monopolies. The authorities envision the liberalization of the electricity market in 2018. The effects of the recent Competition Ordinance on the evolution of the energy markets remain to be seen.

4.3. Manufacturing contributes 1.5% to GDP and 3% to total employment. In response to high production costs, low-valued-added operations have been relocated outside HKC since the late 1980s. The remaining manufacturing firms aim to move up the value chain and focus on producing higher value-added contents. CEPA may provide some room for HKC's manufacturers to expand their production networks, thus helping the sector to transform and upgrade.

4.4. Hong Kong, China's economy is essentially services based, with a clear position as a regional hub in financial services, telecommunications, maritime transport, and air transport. Services account for 93% of GDP and 88% of total employment (2012). This Review covers the sectors traditionally dealt with by TPRs with a specific focus on regulatory changes since the last report in 2010, and with a comparison of trade regimes bound in the context of the GATS, the free-trade agreements signed by HKC, and the applied regime. In addition, this report covers services that are inherently more domestic in nature but that constitute an essential part of the economy, in terms of employment and activity and because they are large and vibrant markets: distribution services and the cluster formed by architecture services, construction services and real estate services.

4.5. HKC's GATS commitments are not always extensive, but the applied regime is quite liberal, as reflected in the standstill-based, negative list in the HKC-EFTA agreement. This contains very few reservations notably for future measures, most of which are purely precautionary. The regime defined by this agreement is applied *erga omnes*. Mainland China benefits from a special standstill whose scope tailored to its concessions to HKC, but this does not translate into any preferential treatment for Mainland China. Under the CEPA, HKC has made no specific services commitments, meaning that the MFN regime applies to Mainland China.

4.6. HKC is a significant and vibrant telecommunications market, with high penetration rates for mobile and broadband services, numerous competing operators (21 for fixed telephony), and low prices by global standards. The regime was entirely liberalized in 2003. HKC's GATS commitments, while extensive, are not as liberal as the applied regime, since they contain several restrictions. The Hong Kong, China (HKC)–New Zealand Closer Economic Partnership Agreement, and to a lesser extent the FTA with EFTA states, although signed much later than the 2003 liberalization, echo the few restrictions listed in the GATS commitments. The main regulatory changes during the review period were the establishment of a new unified regulator for both broadcasting services and telecommunication services, to take into account digital convergence, the withdrawal of regulatory guidance on the charging principles for narrowband interconnection between fixed carriers, number portability, the increase in transparency in several areas, including interconnection arrangements, mobile services information, mobile and fixed broadband services information, the contracting process and pricing information related to mobile content services (MCS), and consumer protection.

4.7. HKC is a regional if not a global hub for financial services. It has 70 of the top 100 global banks operating there, the world's fifth largest forex market, and the sixth largest stock exchange with a particularly thriving initial public offering (IPO) market, notably for companies originating from Mainland China. HKC's GATS commitments for insurance services, cover all subsectors except claims settlement for goods-in-transit insurance. The regime is quite liberal and the only restrictions are a requirement of commercial presence, a requirement of residency for the chief executive, and a prohibition on soliciting business or conducting marketing on a cross-border basis. This latter restriction applies to all financial services. The main regulatory changes for the insurance sector since the last Review concern consumer protection: initiatives on the establishment of a new independent insurance authority in charge of supervision and licencing, establishment of a Policyholders Protection Fund, reinforced measures to protect the purchasers of investment linked assurance schemes (ILAS), group and cross-sector supervision, resolution regime, and development of a risk-based capital framework.

4.8. HKC's GATS commitments on banking and other financial services, cover all except three sectors listed in the GATS financial services annex. Restrictions listed vary by subsector but concern essentially commercial presence, preliminary experience, and residency. The HKC-EFTA states free-trade agreement by-and-large echoes these restrictions. One restriction, i.e. the requirement of three continuing years of presence in Hong Kong, China for overseas banks to establish a locally incorporated fully licensed bank, was removed in July 2012. This autonomous liberalization has been applied *erga omnes*. Mainland China benefits from a standstill via the CEPA. The main regulatory changes for banking implemented or anticipated since the last Review are mostly linked to prudential and consumer protection considerations: the proposed expansion of the supervision of the Hong Kong Monetary Authority to stored value facilities and retail payment systems, Basel III implementation, various policy measures to address the "too big to fail" issue (including the implementation of a systemically important banks framework, and the development of proposals for legislative reform to establish a cross-sectoral resolution regime for financial institutions), reinforcement of the bank deposit insurance scheme, and enactment of anti-money laundering legislation.

4.9. Regarding securities, stock exchanges, mutual funds, and asset management, the main regulatory changes relate to shareholders rights and disclosure obligations for listed companies, the creation of a securities and futures handbook for unit trust and mutual funds, new reporting rules for securities and futures short positions, creation of a regulatory regime for credit rating agencies, the amendment of the trust law, the opening of a public consultation on the introduction of an open-ended fund company (OFC) structure, and enactment of primary legislation for the regulation of over-the-counter (OTC) derivatives.

4.10. Hong Kong, China is a regional and a global aviation hub, in terms of airport traffic (cargo and passenger) and the number of local airlines based there. It is the world's number one cargo airport and eleventh passenger airport, and the contribution of aviation services to GDP was 2.4% in 2008. HKC has 5 designated airlines with a total fleet of 218 aircraft, and is an important centre for business aviation and aircraft repair and maintenance.

4.11. With regard to the air transport services covered by the GATS and its FTAs (aircraft repair and maintenance, computer reservation services, and selling and marketing), Hong Kong, China has no GATS commitments and a reservation for future measures in its agreements with the EFTA states and New Zealand. In terms of the applied regime, computer reservation and selling and marketing are not specifically regulated, while maintenance is subject to a limited number of licences due to spatial constraints and qualification requirements. Ground handling for cargo services is subject to a limited number of licences for the same reasons, while self-handling, mutual handling, and third-party handling is allowed for passengers. The airport is state-owned and managed by a statutory corporation following prudent commercial principles. The designation rules are liberal and retain the criterion of principal place of business. The charter policy takes into account existing scheduled services and, for foreign carriers, reciprocity. There is no specific all-cargo flights policy. The bilateral aero-policy is overall relatively liberal granting fifth freedom rights, principal place of business withholding criteria and multi-designation, often combined with less liberal features such as double approval of tariffs and predetermination of capacity.

4.12. Hong Kong, China's port remained fourth in the world, in terms of container traffic, behind Shanghai, Singapore, and Shenzhen, in 2013. It is successfully competing with the neighbouring Pearl River delta harbours, with a specific comparative advantage on transhipment. The HKC terminal operators, notably Hutchison Ports Holdings, manage numerous ports abroad. The HKC registry is the fourth largest in the world (in terms of tonnage), with 138.13 million dead weight tonnes (DWT), i.e. 8.24% of the world's fleet in January 2014. Favourable operating conditions and the cluster of maritime-related services offered by HKC have attracted investment from global shipowners, which explains why a large part of the tonnage of the registry is beneficially owned by foreign interests. In terms of locally beneficially owned fleet, HKC ranks eighth worldwide, with 1.54% of world tonnage. The shipping policy is liberal with no subsidies or cargo reservation attached to the flag, no restrictions on access to and use of port services and multimodal transport, and no restrictions on onshore activities by foreign firms. The only significant regulatory development since the last Review of HKC is the launch of an Authorized Economic Operator scheme to facilitate trade while improving security.

4.13. Distribution is a major sector of the HKC economy, representing nearly 10% of employment and almost 5% of GDP. Numerous foreign distributors are present but the supermarket segment is largely dominated by local interests. Traditional open-air fresh-food markets ("wet markets") remain an important component of the distribution system. HKC's GATS commitments on distribution services are limited to retail services, with a liberal regime (no restriction for market access under mode 3). The free-trade agreement with the EFTA states contains no reservation for existing non-conforming measures regarding distribution services but includes a reservation for future measures for "other distribution services". The authorities have indicated that for the time being no such measure exist and that the regime defined by this agreement is applied *erga omnes*. The sector appears largely unregulated. In particular, HKC has no specific regulation establishing economic needs tests for the creation of supermarkets or any legislation regulating market access for franchising. The general competition regime applies to the sector. There have been no significant regulatory changes since the last Review.

4.14. The cluster composed by architecture services, construction services and real estate services constitutes an important and dynamic sector of the economy as can be expected in a territory where land is scarce and construction vertical. HKC has no GATS commitments for architecture services and limited commitments, sector-wise, for construction and real estate services. However, the level of commitments made by HKC under its free-trade agreement with the EFTA states is notably more liberal. Foreign architects can fully practice in Hong Kong, China provided they reside and are registered locally. Registration is only granted after applicants have passed the local examination. The licencing regime for construction is subject to non-discriminatory qualification requirements. The licensing regime for real estate agents is open to foreigners provided they fulfill the requirements and have passed the local qualification examination.

4.2 Agriculture and fisheries

4.2.1 Agriculture

4.15. Hong Kong, China's agriculture and fisheries sector is very small, accounting for 0.1% of GDP and total employment. Only seven square kilometres of land are cultivated. Hence, HKC relies heavily on imports, particularly from Mainland China, to feed its population. It imports over 90% of its total food supply. Local agriculture is characterized by small, intensive vegetable and livestock farms, whose produce is sold on the domestic market. There are around 2,400 farms, employing some 4,400 people.[1] The main agricultural products are vegetables, ornamental flowers, pigs, and poultry. These products have taken over from the traditional paddy fields.[2]

4.16. The Agriculture, Fisheries and Conservation Department (AFCD) is responsible for securing orderly production and marketing of agricultural produce, enforcing regulations, and preserving ecological integrity. The Food and Environmental Hygiene Department (FEHD) is in charge of agri-food import certification and the administration of food safety programmes (section 3.2.8).

[1] Agriculture, Fisheries and Conservation Department (AFCD) online information. Viewed at http://www.afcd.gov.hk/english/agriculture/agr_hk.html.

[2] In 2013, local production accounted for 2% of fresh vegetables, 60% of live poultry, and 7% of live pigs consumed in HKC.

4.2.2 Farm support measures

4.17. According to the HKC authorities, agricultural policy follows the free-market principle of minimal government intervention.[3] It focusses on providing basic infrastructure, extension, and advisory services, and credit facilities to farmers. The AFCD carries out research in pest control, crop husbandry, soil management, new product varieties, and production techniques to assist farmers to improve productivity. Infrastructure support includes rehabilitation of fallow land, improvement of irrigation and drainage facilities, and farm management. Loans on concessional terms and emergency relief from natural disasters are also made available to farmers. The total value of loans for farm production under the various funds administered by the AFCD was HK$29 million in 2010-13.[4]

4.18. Under the Accredited Farm Scheme, farms are supervised for pest control and proper use of pesticides. Certified farms may sell their produce at accredited retail outlets with the help of the Vegetable Marketing Organization. At end 2013, a total of 297 farms were accredited under the scheme, supplying some 56 tonnes of produce daily. To gain a competitive edge on quality, local farmers have been turning to organic agriculture in recent years; conversion is supported by AFCD's technical advice. At end 2013, there were 225 organic farms, producing some 5.5 tonnes of organic vegetables a day.[5]

4.19. Legislation requires all livestock farms to be licensed and possess appropriate livestock waste treatment facilities.[6] As a result of the voluntary surrender and buy-out schemes for pig and poultry farms implemented in the mid-2000s on public health grounds, the structure of the livestock industry has been reshaped towards fewer but bigger farms. In 2013, there were 43 pig farms (down from 265 in 2006) with a production value of HK$273 million; and 30 poultry farms producing chicken and eggs worth HK$247 million.

4.20. During the review period, HKC notified the WTO Committee on Agriculture that all its domestic support measures were under the "Green box" (i.e. exempt from the reduction commitment).[7] Total monetary outlays for these measures increased over the review period, amounting to HK$103.7 million in 2013-14 (HK$85.7 million in 2009-10). Pest and disease control measures accounted for over 50% of total annual outlays. HKC also notified that no export subsidies were provided to agriculture during the years under review.[8]

4.2.3 Rice

4.21. Considered a staple food in HKC, rice is designated as a reserved commodity in accordance with the Reserved Commodities Ordinance (Chapter 296). Hence, imports and exports of rice are subject to licences, and the Government enforces a reserve-stock to ensure sufficient supply for local consumption. Businesses registered as stockholders with the Trade and Industry Department may import rice. Upon registration, they are required to make an undertaking to import specific quantities on a quarterly basis and to import such quantities within the relevant period. By April 2014, there were 176 registered stockholders of rice.[9]

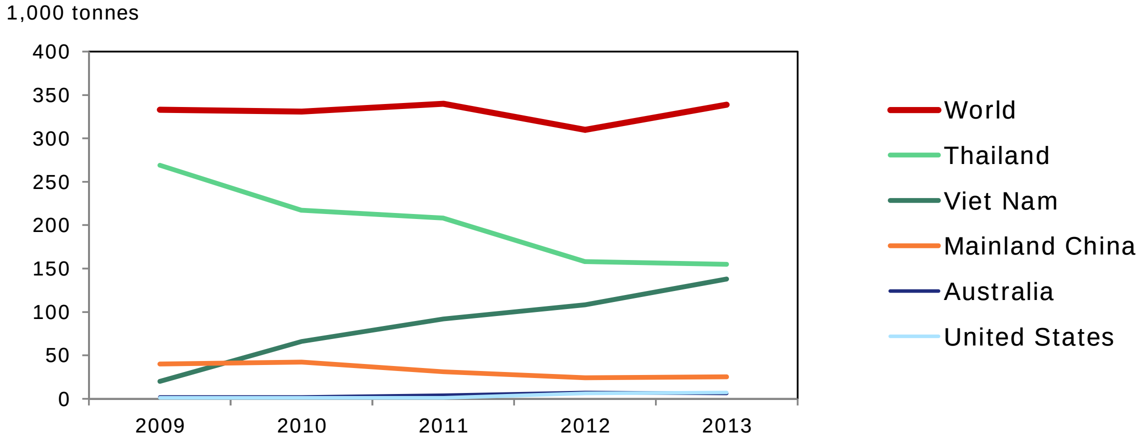
4.22. The reserve-stock is maintained at all times to meet sudden surges in demand in case of short-term supply shortages or other emergencies, and all registered stockholders are required to contribute to it by holding a quantity of rice proportionate to their import volumes. During 2010-13, the reserve stock was maintained at a level "sufficient for consumption by the local population for 15 days", which was on average 13,675 tonnes a year. In the event of an emergency or a supply shortage, the Government has the power to ask rice stockholders to

[3] AFCD online information. Viewed at: http://www.afcd.gov.hk/ebglish/agriculture/ag_hk/ag_hk.html.
[4] Information provided by the HKC authorities.
[5] HKC Government online information, "Hong Kong: The Facts. Agriculture and Fisheries". Viewed at: http://www.gov.hk/en/about/abouthk/factsheets/docs/agriculture.pdf.
[6] Livestock keeping is regulated under the Public Health (Animals and Birds) (Licensing of Livestock keeping) Regulation, Chapter 139L.
[7] WTO documents G/AG/N/HKG/28, 6 May 2010; G/AG/N/HKG/30, 19 May 2011; G/AG/N/HKG/32, 14 May 2012; G/AG/N/HKG/34, 1 May 2013; and G/AG/N/HKG/36, 28 April 2014.
[8] WTO documents G/AG/N/HKG/29, 20 January 2011; G/AG/N/HKG/31, 12 January 2012; G/AG/N/HKG/33, 16 January 2013; and G/AG/N/HKG/35, 15 January 2014.
[9] Trade and Industry Department online information. Viewed at: http://www.tid.gov.hk/english/import_export/nontextiles/nt_rice/monthly_rice.html#Summary.

release stocks to the market or import rice in excess of their undertakings, and set maximum wholesale prices. The last time part of the stocks was released was in 1989.

4.23. In 2013, rice imports to HKC amounted to 346,287 tonnes (up 9.7% from 2012). On the other hand, per capita rice consumption declined (from 49 kg per year in 2005 to 45 kg in 2013) due to changes in eating habits. According to a recent study, since the liberalization of the HKC rice market in 2003, two of the most notable outcomes have been the increase in the number of importers (from 52 in 2002 to 176 in April 2014) and changes in the market shares of overseas rice suppliers to HKC.[10] Thailand remains the main source of rice imports by volume, but its market share has decreased significantly (from 80% in 2009 to 46% in 2013), while Viet Nam has progressively positioned itself as the second-largest supplier, accounting for 41% of imports in 2013, primarily owing to its competitive prices.[11] Mainland China is the third largest source with a 7.3% market share (Chart 4.1). Imports of rice from Mainland China are subject to registration requirements to allow for the implementation of Mainland China's export quotas for rice and other grain products (rice flour and wheat flour), in effect since 2008. Registered HKC importers may import rice from authorized exporters in the Mainland, provided that supplies are entirely used for local consumption and not re-exported.

Chart 4.1 HKC rice imports by major suppliers, 2009-13



Source: Census and Statistics online information. Viewed at: http://www.censtatd.gov.hk.

4.2.4 Fisheries

4.24. Although their contribution to employment is minimal, the fisheries and aquaculture industries supply about a third of HKC's seafood consumption. In 2013, the estimated production of the fishing industry was 170,000 tonnes, valued at HK$2.3 billion. The fishing fleet consists of about 4,000 vessels. In 2013, fish ponds produced 2,187 tonnes of freshwater fish, valued at HK$44 million, while marine fish culture production was 1,005 tonnes, worth HK$94 million.[12]

4.25. The AFCD provides basic infrastructure, technical advice, liaison services, marketing, and training to assist fishermen and encourage conversion to sustainable fisheries. Fishermen and fish farmers may also benefit from low-interest loans under funds administered by the AFCD. During 2010-13, some 1,860 loans totalling HK$286 million were granted to the fisheries industry.[13] HKC has notified its loan schemes for the fisheries sector to the WTO Committee on Subsidies and Countervailing Measures.[14] In addition, the AFCD operates a voluntary Accredited Fish Farm Scheme to monitor the hygiene standards of fish farms and the quality of cultured fish, a fish health management programme, and a good aquaculture practices programme.

[10] USDA FAS (2014).

[11] In 2013, the average import price of Thailand rice was 76% higher than the average import price of Viet Nam rice. However, Thai rice is generally of a higher quality (USDA FAS, 2014).

[12] Information provided by the HKC authorities.

[13] Information provided by the HKC authorities.

[14] WTO documents G/SCM/N/220/HKG, 19 May 2011, and G/SCM/N/253/HKG, 16 July 2013.

4.26. During the review period, the AFCD continued to implement fisheries conservation and management measures. These included strict enforcement against destructive fishing practices, deployment of artificial reefs to contribute to higher diversity and abundance of fish, and the introduction of a ban on trawling in HKC waters (effective 31 December 2012). Amendments to the Fisheries Protection Ordinance in 2012 included the introduction of a registration system for local fishing vessels; limits on new entrants to control the number of fishing vessels; restrictions on fishing by non-fishing vessels; the prohibition of fishing activities of non-local fishing vessels in HKC waters; and the designation of fisheries protection areas.

4.3 Energy

4.27. HKC is a net energy importer as it has no indigenous energy resources. The objectives of HKC's energy policy remained unchanged during the review period: to ensure that the energy needs of the community are met safely, reliably, efficiently, and at reasonable prices; to minimize the environmental impact of energy production; and to use and promote the efficient use and conservation of energy. There is no legislation regulating market conditions *per se* in the energy sector.[15] The Government considers it should intervene only to safeguard the interests of consumers where necessary, ensure public safety, and protect the environment.[16] The Environment Bureau's policy functions include monitoring prices and the energy strategic reserves.

4.28. There are no restrictions on imports and distribution of refined oil products (e.g. petroleum, diesel, and liquefied petroleum gas).[17] Currently, five oil companies are operating in the local market: Chevron, China Petroleum & Chemical Corporation (Sinopec), Exxon-Mobil, and Shell have roughly the same market shares; Chinaoil (Hong Kong) Corporation Limited (PetroChina) also has business locally. Town gas is supplied solely by the Hong Kong and China Gas Company (Towngas), and produced from imported naphtha and natural gas. Natural gas is also imported for electricity generation. All natural gas is imported through pipelines from Mainland China, by Towngas and two power companies (see below). Under a voluntary code of practice entered into with the HKC Government, the oil and gas companies maintain strategic reserves of gas oil and naphtha, respectively. The authorities view the maintenance of these strategic reserves as a tool to mitigate the consequences of any temporary disruption of oil supply, ensuring that sufficient reserves of essential oil products are available over a period of shortage.[18] According to the authorities, the HKC Government does not hold (or sell) oils or oil products to respond to price hiking of these products in the international market.

4.29. Local electricity is generated from coal and natural gas.[19] There are two territorial *de facto* monopolies in electricity generation, transmission and distribution: CLP Power Hong Kong Ltd together with Castle Peak Power Company Limited (collectively, CLP) supplies electricity to Kowloon and the New Territories, including Lantau, Cheung Chau, and several other outlying islands (altogether covering about 80% of HKC's population); while Hongkong Electric Company Ltd (HEC) supplies electricity to Hong Kong Island and the neighbouring islands of Ap Lei Chau and Lamma. CLP imports electricity from its neighbouring Chinese province Guangdong.[20] Both CLP and HEC are private-owned companies, and do not operate on a franchise basis.

4.30. The Environment Bureau monitors price-related issues of electricity and town gas. Monitoring is based on mutual agreements (Scheme of Control Agreements, or SCAs) with

[15] The Electricity Ordinance (Chapter 406) and the Gas Safety Ordinance (Chapter 51) regulate the safe supply of electricity and gas and the safety of household electrical products and gas appliances. Among other things, they cover the registration of generating facilities, contractors and workers for electrical and gas installations, wiring and gas installation standards, and safe distribution and use of electricity and gas.

[16] Environment Bureau online information, "Energy supplies". Viewed at: http://www.enb.gov.hk/en/about_us/policy_responsibilities/energy.html.

[17] In addition to being used as fuel gas for household, commercial and industrial purpose, liquefied petroleum gas (LPG) is used as fuel by nearly all taxis and over 60% of public light buses in HKC.

[18] In general, situations of temporary oil supply disruption may include international events causing a shortage in the world's oil supply (e.g. embargo of oil supply) or local events causing physical damage to storage or distribution facilities of oil (e.g. industrial accidents).

[19] No new coal-fired plants have been permitted to be built since 1997; the existing coal-fired plants generate just over half of electricity in HKC.

[20] HKC Government online information, "Hong Kong Factsheets – Water, Power, and Gas Supplies". Viewed at: http://www.gov.hk/en/about/abouthk/factsheets/docs/wp&g_supplies.pdf.

electricity companies, and an Information and Consultation Agreement (ICA) with Towngas. The Bureau also monitors retail prices of auto-fuels.

4.31. According to the authorities, the SCAs do not offer electricity companies any exclusive rights, nor do they define a supply area for either company, or exclude newcomers to the market.[21] The SCAs involve, *inter alia*, the regulation of tariffs and permitted nominal rates of return. They also require the companies to seek approval from the Government for their five-year development plans, including projected basic tariff levels.

4.32. The electricity tariffs charged by the companies cover operating costs and fuel charges and include the permitted return for providing the service. Under the current SCAs, the permitted rate of return on the average net fixed assets of the power companies is 9.99%; fixed assets for renewable energy permitted a higher rate of return of 11%. The basic tariffs, which include a "standard fuel cost", require approval from the Government. Differences between the standard fuel cost and actual fuel prices are captured in a Fuel Clause Recovery Account, with surpluses being returned to consumers or deficits being recovered from consumers by means of a rebate or a surcharge. A Tariff Stabilisation Fund (TSF) accumulates funds to lessen the impact of tariff increases or facilitate tariff reduction for consumers.

4.33. CLP and HEC maintain different tariff structures. In December 2013, the Government approved the two companies' development plans for 2014-18 as well as their tariffs for 2014: HEC's average net tariff rate remained unchanged, while that of CLP rose by 3.9%.[22] According to the CLP presentation to the Legislative Council, its tariffs are competitive compared with those in other major metropolitan cities such as Singapore, New York, London, and Sydney.[23]

4.34. The current SCA with CLP has been effective since October 2008, and that with HEC since January 2009. Both SCAs are expected to expire in 2018, though the Government has the option to extend them for five more years after reviewing the market conditions. The Government will review the overall development of the electricity market after 2018, including the possibility of reforming the market structure of the sector.

4.35. The Government encourages the use of renewable energy in HKC, though it faces constrains such as scarcity of land for wind turbines. Lamma Winds, a wind-power station owned and operated by HEC, running a 800 kW wind turbine, is the first commercial-scale wind turbine in HKC. There are also some small wind turbine projects funded by the Government or by private financial sources.[24]

4.4 Manufacturing

4.36. Manufacturing in HKC remains a small part of this service-oriented economy. In 2012, manufacturing accounted for about 1.5% of GDP and 3% of total employment. Nearly 99% of enterprises in the manufacturing sector are small or medium-size enterprises (SMEs), employing about ten persons each in 2012.[25] The Government provides support in the form of loans and non-tax incentives to SMEs (section 3.4.1.3).

4.37. From the late 1980s, HKC's manufacturers started relocating and expanding their lower-value-added operations to Mainland China and neighbouring countries in South-East Asia, in response to high local production costs, in particular those of land and labour. According to the Industrial Production Index, all major manufacturing activities in HKC continued shrinking during the period 2007-2012, except for the food, beverage and tobacco sector. Today, this sector

[21] Environment Bureau online information, "Policy responsibilities". Viewed at: http://www.enb.gov.hk/en/about_us/policy_responsibilities/financial_monitoring.html.

[22] The HKC Government press release. Viewed at: http://www.news.gov.hk/en/categories/environment/html/2013/12/20131210_204759.shtml.

[23] HKC Legislative Council Information Paper, *Development Plan (2014-2018) of CLP/CAPCO.* Viewed at: http://www.legco.gov.hk/yr13-14/english/panels/edev/papers/edev1210cb1-524-2-e.pdf.

[24] Electrical and Mechanical Services Department online information, "List of Small Wind Turbines Projects". Viewed at: http://re.emsd.gov.hk/english/wind/small/small_ep.html.

[25] Census and Statistics Department (2013).

employs the largest number of manufacturing workers: 29,190 persons in 2012, accounting for 28.4% of the manufacturing employment.[26]

4.38. The local manufacturing industry is focused on production of higher valued-added contents. In terms of value-added, the food, beverage and tobacco sector created HK$9,357 million in 2012 (accounting for 26.7% of total value-added in manufacturing); followed by the sectors of: paper products, printing and publishing (HK$5,407 million or 15.4%); chemical and pharmaceutical products (HK$2,662 million or 7.6%); and electrical, electronic and optical products (HK$2,143 million or 6.1%).[27]

4.39. HKC's textile and apparel industry continued to contract during the review period, but it is moving up the value chain towards Original Brand Manufacturing (OBM) production, according to the authorities. In terms of value-added, the apparel sector created HK$2,038 million in 2012, accounting for 5.8% of total value-added in manufacturing.[28]

4.40. Although the manufacturing sector is small, it accounted for 98.6% of HKC's "domestic" merchandise exports in 2013.[29] Similarly, manufactures represented 97.5% of merchandise imports in the same year.[30] Considering that manufacturing has been relocated to areas with lower production costs (including land and labour), CEPA may provide HKC some room for further development of higher value-added manufacturing industries. Taking into account the economic integration with Mainland China, CEPA may encourage HKC enterprises to expand their production operations in the Mainland, which according to the HKC authorities would help local industrial transformation and upgrading.

4.5 Services

4.5.1 Telecommunication services

4.5.1.1 Statistical overview

4.41. HKC is a significant and mature telecommunications market as evidenced by the high penetrations rates of mobile and broadband. HKC's objective is to become a major telecom regional hub, notably as a node for submarine telecom cables.

4.42. Table 4.1 below describes the main economic indicators of the telecommunications sector.

Table 4.1 Main economic indicators of the telecommunications sector, 2011-13

Gross output of the telecom industry (billion HK$) 2011: 63.4; 2012: 69.0
Employment (2011): 18,000
Exports (million US$) 2011: 1,246; 2012: 1,398; 2013: 1,455 **Imports (million US$)** 2011: 716; 2012: 884; 2013: 864
Penetration rates (as of December 2013[a]) Total telephone subscribers (per 100 inhab.): 297.95 Total mobile customers: 17,194,291[b] Total telephone lines: 4,317,152[c] Fixed telephone subscribers (per 100 inhab.): 62.9 Mobile phone subscribers (per 100 inhab.): 238.2

[26] Census and Statistics Department (2013), *Key Statistics on Business Performance and Operating Characteristics of the Industrial Sector*. Viewed at: http://www.censtatd.gov.hk/hkstat/sub/sp310.jsp?productCode=B1080012.
[27] Information provided by the HKC authorities.
[28] Information provided by the HKC authorities.
[29] Domestic exports of goods refer to the natural products of HKC or the products of a manufacturing process in HKC, which has permanently changed the shape, nature, form or utility of the basic materials used in manufacture.
[30] Calculation based on the concordance from HS2007 to ISIC, Rev.2.

Fixed (wired)-broadband subscriptions (per 100 inhab.): 30.7
Mobile broadband subscriptions (per 100 inhab): 167.8
Internet users (per 100 inhab.): 74.2% of all persons aged 10 and over had used the internet during the previous 12 months in a survey period from January to April 2013, according to a survey carried out by the Census and Statistics Department (C&SD)

Broadband internet subscribers (per 100 inhab.)
Total broadband subscription per 100 inhabitants is 198.5, of which 30.7 is fixed (wired)-broadband subscriptions per 100 inhabitants.[d]

Main actors

Number of companies providing value-added telecom services
As of 31 December 2013, 71 companies were authorized to provide value-added telecom services.

Names and market shares of the leading companies for fixed telecom services
As of 31 December 2013, 21 carrier licensees were authorized to provide local-fixed telecommunications services and 41 carrier licensees authorized to provide external fixed-telecommunications services:

- Hong Kong Cable Television Limited; SmarTone Communications Limited; Towngas Telecommunications Fixed Network Limited; Sinosat (HKC) Limited; PCCW Global (HKC) Limited; GlobeCast Hong Kong Limited; TVB Network Vision Limited; APT Telecom Services Limited; China Unicom (HKC) Operations Limited; FLAG Telecom Asia Limited; ComNet Telecom (HKC) Limited; AT&T Global Network Services Hong Kong Limited; TraxComm Limited; CITIC Telecom International CPC Limited; PLDT (HKC) Limited; HKC Network Limited; Asia Satellite Telecommunications Company Limited; Hong Kong Broadband Network Limited; China Tietong Group (HKC) Company Limited; China Mobile Hong Kong Company Limited; STT Limited; T-Systems China Limited; Hong Kong Telecommunications (HKT) Limited; Orange Business Services Hong Kong Limited; KDDI Hong Kong Limited; Donghwa Telecom Co., Limited; Bharti Airtel (HKC) Limited; Reach Networks Hong Kong Limited and Reach Cable Networks Limited; Telekom Malaysia (HKC) Limited; China Telecom Global Limited; StarHub (HKC) Limited; GB21 (HKC) Limited; Vodafone Enterprise Global Network HK Limited; New World Telecommunications Limited; Hutchison Global Communications Limited; PCCW-HKT Telephone Limited and Hong Kong Telecommunications (HKT) Limited; Telstra International HK Limited and Telstra International Limited; Pacnet Global (HKC) Limited; Wharf T&T Limited; Pacnet Cable (HKC) Limited; BT Hong Kong Limited; Verizon Hong Kong Limited; Telekomunikasi Indonesia International (HKC) Limited; NTT Com Asia Limited; China Mobile Hong Kong Company Limited; China Mobile International Limited; CTM (HKC) Limited; 21 ViaNet Group Limited; Tata Communications (HKC) Limited; Equinix Hong Kong Limited.

- Three of these companies, Hutchison Global Telecommunications, PCCW HKT, and CSL control 60% of the fixed-telecom market.

Name and market shares of the leading companies for mobile telephone services
The following companies are providing mobile telephony services in HKC with their own networks:
1) China Mobile Hong Kong Company Limited (market share not available);
2) Hong Kong Telecommunications (HKT) Limited (which acquired CSL on May 2014, 39.1%);
3) Hutchison Telephone Company Limited (29.8%); and
4) SmarTone Mobile Communications Limited (market share not available).

Broadband internet service providers
As of 31 December 2013, 197 facility-based and service-based telecommunications service providers were authorized to provide internet service (including narrowband and broadband internet services).[e]

Foreign ownership participation in telecom companies
Not available. HKC authorities do not maintain a list or an overall statistics regarding foreign ownership in telecommunications licence and are not in a position to give information on individual firms.

State ownership
There is no direct government ownership.

Establishment of new companies, mergers or closures since the last Review

HKT Limited, the parent company of Hong Kong Telecommunications (HKT) Limited, an existing mobile network operator, applied in October 2013 for a prior consent to acquire CSL New World Mobility Limited, the parent company of CSL Limited, another mobile network operator, pursuant to the merger and acquisition provision (section 7P) under the Telecommunications Ordinance.

Consent was granted by the Communications Authority, the regulator of the telecommunications and broadcasting sectors in HKC with the authority to apply section 7P to the proposed acquisition in April 2014, with five conditions imposed on the licensees concerned, namely Hong Kong Telecommunications (HKT) Limited and CSL Limited: (i) to divest 29.6 MHz of spectrum in the 1.9 – 2.1 GHz frequency band when the existing assignment of these bands expires in October 2016; (ii) not to participate in the spectrum auction in the 1.9 – 2.1 GHz frequency band for 5 years; (iii) to give notification of the closure of their base transceiver station sites to the other mobile network operators for 5 years; (iv) to continue to provide wholesale network access services to mobile virtual network operators based on the existing agreements for three years; (v) Hong Kong Telecommunications (HKT) Limited is to continue to provide 3G network capacity sharing service to China Mobile Hong Kong Company Limited based on their commercial agreement.[f]

The acquisition transaction was completed on 14 May 2014.

a Or 2012, if 2013 is not available.
b Refers to the sum of post-paid and pre-paid SIM cards.
c Refers to the sum of exchange lines and non-exchange lines.
d "Fixed (wired)-broadband subscriptions" refers to the sum of cable modem, digital subscriber line (DSL) and fibre-to-the-home/building broadband internet subscriptions to the public internet, "wireless-broadband subscriptions" refers to the sum of terrestrial fixed wireless-broadband and active mobile-broadband subscriptions to the public internet.
e A list of internet service providers can be viewed at: http://www.ofca.gov.hk/en/media_focus/data_statistics/internet/list_of_internet_service_providers/index.html.
f For the text of the Decision of the Communication Authority, see http://www.coms-auth.hk/filemanager/statement/en/upload/270/decision_20140502_e.pdf.

Source: Information provided by the HKC authorities; *South China Morning Post*; ITU ICT eye database, and WTO-UNCTAD trade in services database.

4.43. Table 4.2 below indicates the average telecommunication prices in HKC, which are among the world's lowest taking into account purchasing power parity factors.

Table 4.2 Average telecom prices in Hong Kong, China, 2012

Type of telecom service	% of gross national income per capita	US$	US$ corrected by Purchasing Power Parity (PPP)	World ranking
Mobile broadband prepaid handset–based prices (500 MB)	1.4	42.1	61.1	33
Mobile broadband post-paid handset-based prices (500MB)	0.3	8.1	11.7	7
Mobile broadband pre-paid computer–based prices (1GB)	1.4	42.1	61.1	22
Mobile broadband post-paid computer based prices (1GB)	0.9	27.2	39.5	20
Fixed-broadband prices	0.7	21.6	31.3	10
Fixed-telephony prices	0.5	14.1	20.5	18

Source: ITU, *Measuring the Information Society Report*, 2013 edition.

4.5.1.2 Trade regulatory regimes

4.44. The trade regulatory regime of telecommunication services, including its full liberalization in 2003, has been described in detail in all previous TPR reports[31] and has only slightly changed since the previous TPR Review. The main changes intervened since then concern the following areas: two new free-trade agreements containing extensive telecommunication services commitments, the establishment of a new regulator having competence in both telecommunications and broadcasting, the withdrawal of regulatory guidance on the charging principles for narrowband interconnection between fixed carriers, number portability, the increase in transparency in various areas including interconnection arrangements, mobile services information, mobile- and fixed-broadband services information, the contracting process and pricing information related to mobile content services (MCS) and consumer protection.

4.45. The HKC authorities have confirmed that the applied measures contained in the WTO I-TIP services database or telecommunication services remained valid (for a complete list of these

[31] See WTO documents WT/TPR/S/52, 13 November 1998, pages 80-84; WTPR/S/109, 18 November 2002, pages 60-63; WT/TPR/S/173/Rev.1, 13 March 2007, pages 89-92; and WT/TPR/S/241/Rev.1, 25 January 2011, pages 70-73.

measures see Table A4.1, which provides all entries in the I-TIP services database for the telecommunications sector in Hong Kong, China) and that the regime defined by the 2012 HKC-EFTA states Free Trade Agreement is applied on an *erga omnes* basis. Box 4.1 below recapitulates the GATS and the FTA commitments of HKC, while Box 4.2 describes the applied regulatory regime for regulatory supervision, competition and interconnection issues and Box 4.3 the applied regulatory regime for other regulatory aspects of telecommunication services.

Box 4.1 Bound trade regimes of the telecommunications sector

GATS commitments

- HKC subscribes to the regulatory disciplines of the Telecommunication Reference Paper through additional commitments.

- For local services in (a) voice services; (b) packet-switched data transmission services; (c) circuit-switched data transmission services; (f) facsimile services; (g) private leased circuit services; and part of (o) others, i.e. mobile services (defined as mobile radio telephone services including Cellular and Personal Communication Services (PCS)); mobile data services and radio paging services:

Market access: modes 1 and 2 none; mode 3 none, except the exclusive right for providing a fire alarm transmission system for relaying fire alarm signals between Fire Services Departments and public buildings and four licences for local fixed network services that were issued in 1995 to possibly be extended in 1998; mode 4: unbound, except intra-corporate transfer of general managers, senior managers and specialists; national treatment: modes 1, 2 and 3: none; mode 4: unbound.

- For international services in (a) voice services (resale based only); (b) packet-switched data transmission services (resale based only); (c) circuit-switched data transmission services (resale based only); (f) facsimile services (resale based only); and part of (o) others, i.e. call back services and alternative calling procedures (resale based only); self-provision of external satellite circuit; virtual private network (resale based only) and mobile satellite services:

Market access: mode 1: none except public external services not allowed; for self-provision of satellite services circuits and virtual private network services connection to the Public Switched Telephone Network (PSTN) at HKC end may be restricted; for mobile satellite services gateway station for mobile satellite traffic is not allowed; mode 2: none; mode 3: same restrictions as mode 1; mode 4: unbound except intra-corporate-transferee for managers and specialists; national treatment: modes 1, 2 and 3: none; mode 4: unbound.

- For value-added services (limited to public services accessed by its subscribers and offered over circuits provided by public telecommunications transport network services):

Market access: mode 1: unbound; mode 2: none; mode 3: none other than commercial presence must take the form of a company; mode 4: intra-corporate transfer of general managers, senior managers and specialists; national treatment: modes 1 and 2: unbound; mode 3: none; mode 4: unbound.

Free-trade agreements commitments

HKC-EFTA States FTA (entered into force on 1 October 2012 for the part between HKC, Iceland, Liechtenstein and Switzerland; on 1 November 2012 for the part between HKC and Norway).

Full liberalization except for the following reservations:
- no reservation listed for existing non-conforming measures regarding telecommunication services; this regime is applied *erga omnes*.
- HKC reserves the right to adopt or maintain any measures inconsistent with national treatment and market access obligations with respect to certain aspects of the following telecommunications services: (a) voice services; (b) packet-switched data transmission services; (c) circuit-switched data transmission services; (d) telex services; (e) telegraph services; (f) facsimile services for international services; (g) private-leased circuit services; and (o) other telecommunication services. HKC's commitments on telecommunications services essentially reflect HKC's revised Doha Development Agenda (DDA) offers under GATS with some Doha-plus liberalization commitments in respect of certain international services under mode 1.

However, to date, no such measures exist (II-HKC-11).

HKC–New Zealand Closer Economic Partnership Agreement (entered into force on 1 January 2011)

Full liberalization except for the following reservations:
- no reservation for existing non-conforming measures on telecommunications services; this regime is applied *erga omnes*.
- HKC reserves the right to adopt or maintain any non-conforming measures to the obligations of market

access, national treatment, local presence and most-favoured-nation treatment for cross-border services and investment with respect to the following telecommunications services: (a) voice telephone services; (b) packet-switched data transmission services; (c) circuit-switched data transmission services; (d) telex services; (e) telegraph services; (f) facsimile services; (g) private-leased circuit services; and (o) others so long as they are not inconsistent with HKC's obligations under Articles XVI, XVII and XVIII of GATS or with its revised DDA offer (TN/S/O/HK/Rev.1, 16 June 2005) (reservation II-HKC 10). However, to date no such measures exist.

CEPA with Mainland China (entered into force on 29 June 2003)

- Paragraph 5 of Annex 4 to the CEPA with Mainland China stipulates that as from 1 January 2004, HKC will not impose any new discriminatory measures on Mainland's services and service suppliers in the areas where the Mainland has undertaken specific commitments on liberalization of trade in services for HKC. The initial scope of this standstill has been enlarged by successive supplementary commitments of Mainland China in the area of telecommunication services contained in CEPA's supplements IV, VI, IX and X. This standstill is applied to Mainland China only.

Source: HKC GATS Schedule and WTO RTA-IS database.

Box 4.2 Applied regulatory regime for regulatory supervision, competition and interconnection

Regulatory supervision

The Communications Authority (CA), the independent regulator *stricto sensu*, and the Office of the Communications Authority (OFCA), the administrative department providing support to the regulator, were established in April 2012.[a] They oversee both the broadcasting sector and the telecommunications sector with the aim of meeting the regulatory challenges arising from the new era of convergence.

From 1 April 2012 to 31 March 2013, the CA considered five complaints under sections 7K, 7L and 7N of the Telecommunication Ordinance (TO), which prohibit anti-competitive conduct by telecommunication licensees. After due consideration the cases were closed with no investigation opened. Similarly the CA considered four cases under section 7P of the TO which regulates merger and acquisition activities involving carriers' licensees and concluded that no issue was raised that required commencement of investigation.

The Competition Ordinance (Ordinance) prohibits three types of anti-competitive conduct in the market: (i) anti-competitive agreements, concerted practices and decisions of an association of undertakings (known as the First Conduct Rule); (ii) abuse of market power (Second Conduct Rule); and (iii) mergers that are likely to substantially lessen competition, which is applicable only to the telecommunications sector (the Merger Rule) (see section 3.4.2.1).

The Ordinance provides that the CA will have concurrent jurisdiction with the Competition Commission (Commission) in respect of the investigation and bringing of enforcement proceedings of competition cases in the broadcasting and telecommunications sectors. On the handling of complaints against anti-competitive practices, the Commission and the CA will conduct enforcement actions in accordance with the requirements on concurrent jurisdiction in the Ordinance upon the full commencement of the Competition Ordinance.

The Commission and the CA are required to prepare and sign a Memorandum of Understanding (MoU) under the Ordinance. The MoU seeks to coordinate the performance of functions of the Commission and the CA under the Ordinance, and set out the detailed arrangements for the two bodies in respect of dispute resolution, provision of assistance, allocation of responsibility, supply of information, authorship of educational materials or guidelines, etc.

The Trade Descriptions (Unfair Trade Practices) (Amendment) Ordinance 2012 came into effect on 19 July 2013 and criminalises unfair trade practices in the consumer transactions of goods and services, including "false trade descriptions", "misleading omissions", "aggressive commercial practices", "bait advertising", "bait-and-switch" and "wrongly accepting payment". Jurisdiction is conferred on the CA to enforce the relevant sections in relation to commercial practices of licensees under TO and the Broadcasting Ordinance that are directly connected with the provision of a telecommunications service or broadcasting service.

Interconnection and competition issues

Fixed-interconnection regime
Regulatory guidance on the charging principles for narrowband interconnection between fixed carriers was first promulgated in 1995, when the local fixed telecommunications market was liberalized. Taking into account the significant changes and developments in the market and technologies over the past two decades, regulatory guidance which applies to narrowband interconnection between fixed carriers is increasingly out of place when broadband interconnection is not subject to similar regulatory guidance. After

public consultation, the CA decided in April 2013 to withdraw the regulatory guidance on the charging principles for narrowband interconnection between fixed carriers subject to a transitional period of 18 months.[b]
Beginning October 2014, all types of carrier-to-carrier local interconnection charges, including those between fixed carriers, between fixed and mobile carriers, and between mobile carriers, are no longer subject to any regulatory guidance by the CA.

All carriers are encouraged to conduct negotiations and reach agreements with each other on interconnection matters on a commercial basis. If the interconnecting carriers cannot reach agreement on the terms and conditions of interconnection, either party may seek determination of the CA under section 36A of the Telecommunications Ordinance.

Number of complaints filed or resolutions issued of interconnection disputes among operators: nil in 2013.

a For more elements on these two regulatory institutions, see their first annual report at: http://www.ofca.gov.hk/trade_fund_report/1213/pdf/en/2.pdf.
b For more details, see Review of Regulatory Guidance on the Charging Principles of Interconnection between Fixed Carriers (16 April 2013) at: http://www.coms-auth.hk/filemanager/statement/en/upload/170/ca_statements20130416.pdf.

Source: Information provided by the HKC authorities.

Box 4.3 Other regulatory aspects

Other regulatory aspects

No regulatory changes since the last TPR report in the following areas: facility-sharing, local loop unbundling; mobile interconnection (not subject to any regulation); mobile roaming rates; accounting rates; licensing, price caps and regulations; universal service and autonomous liberalization.

Number portability

Following the implementation of Unified Carrier License (UCL) regime in 2008, the then Telecommunications Authority (now the Communications Authority/CA) decided that all prior determinations concerning the responsibilities of charges in relation to fixed number portability (ONP) and mobile number portability (MNP) activities were to be sunset on 29 June 2010.[a]

Transparency

- To enhance the transparency of interconnection arrangements among carriers and service providers, the then Telecommunications Authority (now the Communications Authority/CA) has promulgated the updated arrangement for the publication of interconnection agreements in 2012.[b]
- To address the rising number of complaints related to "mobile bill shock", OFCA promulgated in May 2010 a series of preventive measures for the industry to adopt. These measures include allowing customers to opt out of individual services; setting a charge ceiling; setting a usage cap for all kinds of usage-based mobile services; and alerting customers through short messages when their predetermined usage threshold is reached, or whenever their roaming data usage is triggered. With a view to increasing the transparency of the relevant service information, OFCA published the measures implemented by individual operators on its website and provided updates on a regular basis.[c]

- To better protect consumer interests and enhance the transparency of service information, the CA issued a set of mandatory guidelines entitled "Guidelines for the Implementation of Fair Usage Policy for the Provision of Mobile and Fixed Broadband Services" governing how service providers should implement their Fair Usage Policy. The mandatory guidelines have been in effect since February 2012.[d]

- In December 2010, in order to provide guidelines for the industry on drawing up communications service contracts so as to improve transparency in the contracting process and increase customer satisfaction, the Communications Association of HKC (CAHK) promulgated the self-regulatory Industry Code of Practice for Telecommunications Service Contracts. Since July 2011, all major fixed and mobile network operators and one major external telecommunications services operator have implemented the measures necessary to comply with the Industry Code to provide personal and residential users of telecommunications services with better protection upon signing or renewal of service contracts.[e]

- To safeguard consumer interests and increase transparency of the pricing information related to mobile content services (MCS), OFCA has been working closely with the industry to draw up the voluntary "Code for the Provision of Chargeable Mobile Content Services". The Code governs the practices of third-party Content Service Providers (CSPs) in providing MCS and the establishment of an industry self-regulatory scheme. This was promulgated and put into effect by the Communications Association of HKC in January 2010. The Code requires all third-party CSPs, before initiating delivery of MCS to customers, to indicate to them clearly the chargeable nature of the services, provide them with clear information on all charges, obtain clear consent from them for the provision of MCS, and also set out clearly the unsubscribing mechanisms, which should be simple and convenient.[f]

Spectrum management

4G auctions

Following the auction of 90 MHz of radio spectrum in the 2.5/2.6 GHz band in January 2009, the OFCA auctioned 90 MHz of spectrum in the 2.3 GHz band in February 2012 and an additional 50 MHz of radio spectrum in the 2.5/2.6 GHz band in March 2013 for the further development of 4G mobile services in Hong Kong, China. The February 2012 auction fetched total Spectrum Utilization Fees (SUF) of HK$0.47 billion with the spectrum assigned to two incumbent operators and one new entrant. The March 2013 auction fetched HK$1.54 billion in SUF with the spectrum assigned to four incumbent operators. The assignments were made by auctions conducted in a simultaneous multiple-round ascending format whereby the radio spectrum as divided into a number of frequency bands were auctioned simultaneously over multiple rounds with the price increasing on each frequency band independently. The frequency bands were assigned to bidders who submitted the highest bid. The auctions were opened to incumbent operators and new entrants. There was no foreign-ownership restriction on applicants. All applicants were formed and registered under the Companies Ordinance in Hong Kong, China.

Reassignment of the 3G spectrum

The existing assignment of radio spectrum in the 1.9 - 2.2 GHz band in 2001 will expire in October 2016. After two rounds of public consultation in March and December 2012, it was concluded in November 2013 that each of the four incumbent 3G operators would be offered a right of first refusal (RFR) to be re-assigned two-thirds of the 118.4 MHz of paired spectrum they currently hold in the 1.9 - 2.2 GHz band. The remaining one-third of the paired spectrum, together with any spectrum in respect of which the incumbent 3G operators do not exercise the RFR, would be re-assigned by way of auction.

In May 2014, the Communications Authority announced its decision to give consent, with conditions imposed, to the acquisition of an incumbent 3G operator by another 3G operator. One of the conditions imposed was that the merged entity shall divest an additional 10 MHz of radio spectrum in the 1.9 - 2.2 GHz band for assignment through auction. The auction is expected to be held near the end of 2014.

a For more elements, see statement of the Telecommunications Authority (10 July 2009), at: http://tel_archives.ofca.gov.hk/en/tas/numbering/tas20090710.pdf.

b See update of the existing arrangements for the Filing and Publication of Interconnection Agreements (2 March 2012). Viewed at: http://tel_archives.ofca.gov.hk/en/tas/interconnect/ta20120302.pdf.

c See measures implemented by mobile operators to prevent mobile bill shock. Viewed at: http://www.ofca.gov.hk/en/consumer_focus/education_corner/guide/advice_mps/billshock/index.html.

d See Guidelines for the Implementation of Fair Usage Policy for the Provision of Mobile and Fixed Broadband Services. Viewed at: http://www.coms-auth.hk/filemanager/statement/en/upload/38/gn_201124e.pdf

e See Code of Practice for Telecommunications Service Contracts. Viewed at: http://www.coms-auth.hk/filemanager/statement/en/upload/36/Industry_CoP_Telecom_Service_Contract _e.pdf.

f See Code for the Provision of Chargeable Mobile Content Services. Viewed at: http://www.coms-auth.hk/filemanager/statement/en/upload/34/Code_MCSe.pdf.

Source: Information provided by the HKC authorities and WTO-ITIP database.

4.5.2 Financial services

4.5.2.1 Statistical overview

4.46. Financial services are a key sector of HKC economy as they contribute to approximately 16% of its GDP and provide over 6% of employment. This sector is an enabler for the economy of the whole territory and also for a wider array of regional and global customers since HKC is a regional financial services hub. For instance, banking institutions operating in HKC come from 34 different countries and include 70 of the 100 largest banks. The HKC insurance market has the third highest penetration rate in Asia after Chinese Taipei and Rep. of Korea. According to a study conducted in 2013 by the Bank for International Settlements, HKC was the world's fifth largest foreign exchange market in terms of turnover. Likewise, the Hong Kong, China stock market was the sixth largest in the world and the second largest in Asia in terms of market capitalization at end May 2014, and the most active market globally for initial public offerings (IPO) funds raised in 2009, 2010 and 2011. In 2013, US$22 billion were raised. At end May 2014, 1,673 companies were listed on the Stock Exchange of Hong Kong (SEHK) with a market capitalization of

HK$23,622.7 billion. Among them, 822 were Mainland enterprises, which together raised around HK$3,833.4 billion bewteen 1993 to May 2014.

4.47. Table 4.3 describes the main economic indicators of the financial services sector in general, while Tables 4.4 to 4.7 describe in more detail the economic indicators of the banking subsector (Table 4.4), of the insurance subsector (Table 4.5), of the stock exchanges and securities' subsectors (Table 4.6) and of the mandatory provident fund schemes' subsector (Table 4.7).

Table 4.3 Main economic indicators of the financial sector

General Share of financial services in the GDP 2010: (of which insurance) 16.3% (3.1%) 2012: (of which insurance) 15.9% (2.9%) [C&SD]
Share of financial services in total employment 2010: (of which insurance) 7.7% (2.8%) 2012: (of which insurance) 7.8% (2.9%)
Net financial services export 2010: HK$74,113 million (net financial services exports exclude insurance and pension services) HK$2,598 million (net insurance and pension services exports) 2013: HK$95,704 million (net financial services exports exclude insurance and pension services) HK$1,447 million (net insurance and pension services exports)
Capital stock of HKC financial services providers abroad - Insurance service providers: 2011: HK$155.6 billion (2.0% of the total outward DI stock); 2012: HK$201.7 billion (2.2% of the total outward DI stock)[a] - Banking and securities services providers: not available
Significance of the financial services arm of the Post The only financial services provided by Hong Kong Post are remittance services. The total remittance amount in 2013/14 is HK$156 million (comprising inbound HK$89 million (i.e. e-remittance HK$87 million and postal remittance $2 million) and outbound HK$67 million (i.e. e-remittance HK$64 million and postal remittance HK$3 million). The market share should be insignificant.

a Caution should however be exercised on the interpretation of the outward DI statistics. The stock of outward DI (i) includes ONLY claims of HKC residents who have a significant degree of influence (for statistical purposes, equivalent to a holding of 10% or more of the voting power) in the non-resident enterprises and (ii) comprises BOTH equity and investment fund shares (including equity, shares and reinvestment of earning and debt instruments (inter-company debt). Thus, the definition of outward DI statistics does NOT exactly match with the definition of "Capital Stock Abroad".

Source: Information provided by the HKC authorities, WTO-UNCTAD trade in services database.

Table 4.4 Banking subsector

Banking services Number of banks and recent consolidation 2010[a]: 193 banks[b] (of which, foreign-controlled banks[c]: 44; branches of foreign banks[d]: 132) 2013[e]: 201 banks[f] (of which, foreign-controlled banks[g]: 42; branches of foreign banks[h]: 143) Number of banks by type (end May 2014): 159 licensed banks; 20 restricted licensed banks; 23 deposit-taking companies; 61 local representative offices of overseas banking institutions. These institutions (except for the latter) operate a network of 1,393 local branches.
Top 3 banks' assets as a share of assets of all commercial banks 2009: 73%; 2010: 73.63%; 2011: 72.15% Authorized institutions' (AIs) total assets at the end of 2010 and 2013 2010: HK$12,291 billion (of which, foreign-controlled banks: HK$3,454 billion, branches of foreign banks:

HK$5,305 billion)
2013: HK$16,942 billion (of which, foreign-controlled banks: HK$4,749 billion; branches of foreign banks: HK$7,446 billion)

Lending activities (AIs' loans outstanding at the end of 2010 and 2013)

2010: HK$4,228 billion (of which domestic lending: 77%; foreign lending: 23%)
2013: HK$6,457 billion (of which domestic lending: 70%; foreign lending: 30%)

AIs' investment in listed and unlisted shares at the end of 2010 and 2013

2010: HK$131 billion
2013: HK$199 billion

a Figures as at 31 December 2010.
b HKC maintains a three-tier system of deposit-taking institutions, namely, licensed banks (LB), restricted-licence banks (RLB) and deposit-taking companies (DTC). They are collectively known as authorized institutions. The figure includes LB, RLB and DTC. Only licensed banks may operate current and savings accounts, and accept deposits of any size and maturity from the public and pay or collect cheques drawn by or paid in by customers. Restricted licence banks are principally engaged in merchant banking and capital markets activities and 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 engaged 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.
c Foreign-controlled banks refer to banks, including LB, RLB and DTC, incorporated in HKC with non-Hong Kong-beneficial ownership.
d Branches of foreign banks refer to banks, including LB, RLB and DTC, incorporated outside HKC.
e Figures as at 31 December 2013.
f Foreign-controlled banks refer to banks, including LB, RLB and DTC, incorporated in HKC with non-Hong Kong-beneficial ownership.
g Branches of foreign banks refer to banks, including LB, RLB and DTC, incorporated outside HKC.
h Figures as at 31 December 2013.

Source: Information provided by the HKC authorities, WTO-UNCTAD trade in services database and Financial Development and Structure Dataset, The World bank, November 2013. Viewed at http://econ.worldbank.org/WBSITE/EXTERNAL/EXTDEC/EXTRESEARCH/0,,contentMDK:20696167~pagePK:64214825~piPK:64214943~theSitePK:469382,00.html.

Table 4.5 Insurance subsector

Insurance

Number of insurance companies and recent consolidations
2010: 168 companies of which life: 46 (31 of which were incorporated outside HKC); non-life: 103 (40 of which were incorporated outside HKC); composite: 19 (9 of which were incorporated outside HKC), including 19 reinsurers and 1 captive insurer.
2012[a]: 155 companies of which life: 44 (29 of which were incorporated outside HKC); non-life: 92 (34 of which were incorporated outside HKC); composite: 19 (9 were incorporated outside HKC), including 19 reinsurers and 1 captive insurer.

Life insurance premium volume to GDP
2009: 9.6%; 2010: 10.3%; 2012: 11%
Non-life insurance premium volume to GDP
2009: 1.8%; 2010: 1.8%; 2011: 1.8%; 2012: 1.9%
Insurance density (US$/inhab.)
2010: 3,636; 2011: 4,046; 2012: 4,559
Insurance penetration (% of GDP)
2010: 11.4%; 2011: 11.9%; 2012: 11.4%

Concentration
Cumulative market share of the top 5 companies: life insurance 56.5%; non-life 24.6%; health insurance: not available; reinsurance: not available.

a Insurance statistics for 2013 are not yet available.

Source: Information provided by the HKC authorities, WTO-UNCTAD trade in services database and Financial Development and Structure Dataset, The World Bank, November 2013. Viewed at: http://econ.worldbank.org/WBSITE/EXTERNAL/EXTDEC/EXTRESEARCH/0,,contentMDK:20696167~pagePK:64214825~piPK:64214943~theSitePK:469382,00.html.

Table 4.6 Stock exchange and securities subsector

Stock exchange and securities
Capitalization of the companies listed
2010: Total market cap. HK$20,942.2 billion (i.e.11.8 times of the GDP the same year) 2012: Total market cap. HK$21,871.7 billion (i.e. 10.7 times of the GDP the same year) 2013: Total market cap. HK$24,042.8 billion (i.e. 11.3 times of the GDP the same year)
Stock market total turnover to GDP (%)
2010: 968.9; 2011: 886.8; 2012: 653.0; 2013: 718.2
Private bond market capitalization to GDP (%)
2010: 14.3; 2011: 15.3
Public bond market capitalization to GDP (%)
2010: 34.6; 2011: 36.0
Securities turnover on the Stock Exchange (secondary market, 2013)
73.5% of equities; 11.7% of derivative warrants; 8.3% of Callable Bull/Bear Contracts (CBBCs) and 6.5% of Unit Trusts (include ETFs)

Source: Information provided by the HKC authorities.

Table 4.7 Mandatory provident fund schemes subsector

Constituent funds of mandatory provident fund schemes Number of funds: December 2010: 421; March 2014: 477
Total assets: December 2010: HK$365,442 million; March 2014: HK$516,192 million

Source: Information provided by the HKC authorities.

4.5.2.2 Trade and regulatory regimes for financial services

4.5.2.2.1 Trade and regulatory regimes for insurance services

4.48. The trade and regulatory regimes of insurance services in HKC has been described in detail in all previous TPR reports[32] and have only marginally changes since the previous TPR report in 2010. The main changes included the following areas: two new free-trade agreements containing extensive insurance services commitments, the planned creation of a newly-established statutory body, an independent Insurance Authority in charge of supervision and licensing, the establishment of a Policyholders Protection Fund, consumer protection measures for the purchase of Investment Linked Assurance Schemes (ILAS), and group and cross-sector supervision as well as a resolution regime for financial institutions.

4.49. The HKC authorities have confirmed that the applied measures contained in the I-TIP services database for insurance services remained valid and that the regime defined by the 2012 HKC-EFTA States Free Trade Agreement is applied on an *erga omnes* basis. Box 4.4 recapitulates the GATS and the FTA commitments of HKC, while Box 4.5 describes the applied regulatory regime and the main recent regulatory evolutions for the sector.

[32] See WTO documents WT/TPR/S/52, 13 November 1998, pages 77-80; WTPR/S/109, 18 November 2002, pages 58-60; WT/TPR/S/173/Rev.1, 13 March 2007, pages 87-89; and WT/TPR/S/241/Rev.1, 25 January 2011, pages 67-69.

Box 4.4 Bound trade regimes for insurance services

GATS commitments

- General horizontal reservation for all financial services

The commitments made with respect to mode 1 (cross-border supply) and mode 2 (consumption abroad) supply of financial services inscribed in this section of the Schedule do not signify a commitment to allow a service supplier from the territory of another Member to solicit business or to conduct marketing in HKC.

- Life, accident and health insurance services and non-life insurance services

Market access: mode 1: unbound; mode 2: none other than that statutory insurances which include third-party liability in respect of vehicles and vessels and employer's liability insurance in respect of employees must be purchased from an insurer authorized in HKC; mode 3: none other than that only a company or an association of underwriters is permitted to carry out insurance business. In the case of the former, commercial presence must take the form of a subsidiary, branch or representative office, although insurance business may not be carried out through a representative office; mode 4: intra-corporate transferee for managers and specialists.

National treatment: modes 1 and 2: unbound; mode 3: none other than that the chief executive appointed by the authorized insurer should normally reside in HKC; mode 4: unbound.

- Reinsurance and retrocession

Market access: mode 1: none, provided that the insurance company is a company incorporated outside HKC and has no agent nor place of business in HKC; mode 2: none; mode 3: none other than that only a company or an association of underwriters is permitted to carry out insurance business. In the case of the former, commercial presence must take the form of a subsidiary, branch or representative office, although insurance business may not be carried out through a representative office; mode 4: intra-corporate transferee for managers and specialists.

National treatment: modes 1 and 2: unbound; mode 3: none other than that the chief executive appointed by the authorized insurer should normally reside in HKC; mode 4: unbound.

- Services auxiliary to insurance (including broking and agency services)

Market access: mode 1: none other than claims settlement services, except for settlement of claims under contracts of goods in transit insurance entered into wholly outside HKC in respect of goods consigned to HKC; modes 2 and 3: none; mode 4: intra-corporate transferee for managers and specialists.

National treatment: modes 1 and 2: unbound; mode 3: none; mode 4: unbound.

Free-trade agreements commitments

HKC-EFTA-States FTA (entered into force on 1 October 2012 for the part between Hong Kong, China, Iceland, Liechtenstein and Switzerland; 1 November 2012 for the part between Hong Kong, China and Norway)

Full liberalization except for the following reservations:
- Appendix 1 to Annex X of the agreement contains three reservations to cover existing non-conforming measures relating to insurance services namely:

I-HKC-11: for life and non-life insurance (market access and national treatment): for mode 1 and 2, non-resident insurance companies cannot supply insurance services (including maritime, aviation and transport (MAT) insurance) through an intermediary authorized in HKC if the supply of the service involves solicitation of business or marketing by the service supplier. It is only in circumstances where, if an insurance broker is requested by his client or as a result of the absence of suitable insurance products available locally, then the insurance broker can refer or arrange a contract of insurance with an insurer authorized in other jurisdictionS but not authorized in Hong Kong, China. In that case, the insurance broker shall advise his client of the unauthorized status of the insurer and obtain a written acknowledgement of the fact from the client. This exception to the prohibition of the activity by non-resident firms is GATS plus since mode 1 is unbound under GATS. For mode 3, same regime as GATS.

I-HKC-12: for reinsurance and retrocession (market access and national treatment: for modes 1 and 2 (i) the insurance company must be a company incorporated outside Hong Kong, China, and have no agent nor place of business in Hong Kong, China; or (ii) for service suppliers which do not meet the foregoing conditions, if the supply of the service involves solicitation of business or marketing by the service supplier, only an incorporated company, which maintains an office in Hong Kong, China as its place of business and authorized by the Insurance Authority, or an association of underwriters, which maintains an office in

Hong Kong, China as its place of business approved by the Insurance Authority is permitted to carry on insurance business in or from Hong Kong, China. In the case of the former, the company must take the form of a subsidiary, branch or representative office, although insurance business may not be carried out through a representative office. The chief executive appointed by the authorized insurer shall normally reside in Hong Kong, China. The business opportunity allowed by (II) is GATS plus. For mode 3, same regime as GATS.

I-HKC-13: for Insurance intermediation (such as brokerage and agency) and services auxiliary to insurance (such as consultancy, actuarial, risk assessment and claim settlement services): (market access and national treatment: for modes 1 and 2); similar restriction as in GATS commitments if the supply of the service involves solicitation of business or marketing with respect to modes 1 and 2. This regime is GATS plus as the mode 1 GATS restriction for market access excluding claim settlement from the scope of the commitments is lifted.

- The HKC-EFTA States FTA also contains in its second list of reservations a reservation (II-HK-18) limiting HKC's commitments to (a) direct insurance (including co-insurance): life and non-life (other than mode 1 and mode 2 with respect to statutory insurances, which require such insurances to be purchased from an insurer authorized in HKC); (b) reinsurance and retrocession; (c) insurance intermediation, such as brokerage and agency; (d) services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services and ensuring that they are subject to the reservations in I-HKC-11, I-HKC-12, I-HKC-13, I-HKC-14, I-HKC-15, I-HKC-15 and I-HKC-18.

<u>HKC–New Zealand Closer Economic Partnership Agreement</u> (entered into force on 1 January 2011)

- This Agreement in its Annex II to Chapter 13, contains a clause (II-HKC-14) reserving the right to adopt or maintain any non-conforming measures to the market access, national treatment, local presence and most-favoured-nation treatment obligations for cross-border services and investment with respect to financial services that are not inconsistent with HKC's obligations under Articles XVI, XVII and XVIII of GATS or with its Revised Offers on Services contained in the WTO document TN/S/O/HKG/Rev.1, 16 June 2005.

<u>CEPA with Mainland China</u> (entered into force on 29 June 2003)

- Paragraph 5 of Annex 4 to the CEPA with Mainland China stipulates that as from 1 January 2004, HKC will not impose any new discriminatory measures on Mainland's services and service suppliers in the areas where the Mainland has undertaken specific commitments on liberalization of trade in services for HKC. The initial scope of this standstill has been enlarged by successive supplementary commitments of Mainland China in the area of insurance services contained in CEPA's supplements IV and VIII. This standstill is applied to Mainland China only.

Source: HKC GATS Schedule and WTO RTA-IS database.

Box 4.5 Applied trade regime and general regulatory framework for insurance services

Applied trade regime

In line with the commitments under the HKC-EFTA States FTA, which are applied *erga omnes*.

General regulatory framework

<u>No changes in the following areas</u>

Preferential arrangements, bilateral agreements and MOUs, licensing criteria and procedures and the following aspects of prudential regulations: differences of treatment between domestically owned firms, foreign-owned branches, and foreign-owned subsidiaries, recognition of home country supervision of foreign insurance companies, minimum capital requirements to obtain a licence, administrative allocation of insurance services and approval process for life and non-life premiums and products.

Supervisory authorities
The agency responsible for the supervision of the insurance sector will be changed from the Office of the Commissioner of Insurance, a government department, to a newly-established statutory body, an Independent Insurance Authority, tentatively in 2015.

Prudential regulations

<u>Policyholders Protection Fund</u>

Following up on the 2010 initiative for establishing a Policyholders Protection Fund (PPF) to serve as a safety net to policyholders in the event of an insurer becoming insolvent, HKC authorities conducted a three-month public consultation on the establishment of the PPF, its coverage, level of compensation, funding mechanism and governance arrangements. The final proposals were announced in January 2012. The PPF proposal comprises two independently operated schemes (i.e. the Life Scheme and the Non-Life Scheme) and covers individual policyholders and SMEs. The compensation limit for the PPF will be 100% for the first HK$100,000 of any claim, plus 80% of the balance up to a total of HK$1 million. For life insurance, the compensation limit will be on a per-policy basis while on a per-claim basis for non-life insurance. It will be funded by levy. The initial levy rate for both the Life Scheme and Non-Life Scheme would be 0.07% of the applicable premiums collected from insurers. The PPF will be administered by a statutory body, with the oversight of an independent governing body, i.e. PPF Board comprising professionals experienced in insurance, finance, accounting, law and consumer affairs, and *ex-officio* representatives from the Government. The Government is preparing the enabling legislation for its establishment.

Consumer protection measures for the purchase of Investment Linked Assurance Schemes (ILAS)

These measures have been reinforced to ensure that policy-holders are aware of the risks and that products are appropriately aligned with the risk profile of the investors. These include extending the cooling-off period to 21 days, prohibiting the insurers from offering gifts, requiring customers to complete a consolidated important fact statement and applicant's declaration and extending the post-sales confirmation calls to all customers.

Group and cross-sector supervision

In order to work closely with regulators in other jurisdictions in regulating major insurance groups, the Insurance Authority (IA) both participates in and convenes supervisory colleges. In April 2012, the IA held a supervisory college in Hong Kong for an insurance group based in Hong Kong, China with operations in a number of jurisdictions.

Development of a risk-based capital framework

To align with international regulatory practices, the IA is reviewing the solvency and capital regime with a view to developing an appropriate risk-based capital framework for HKC, taking into account experiences in other jurisdictions and the latest international regulatory requirements.

Resolution regime

To secure an effective resolution regime that meets the FSB's standards set out in the "Key Attributes of Effective Resolution Regimes for Financial Institutions", HKC conducted a consultation on establishing "An Effective Resolution Regime for Financial Institutions in Hong Kong" in January 2014. The proposed resolution regime, if established, will provide authorities (including IA) with powers to bring about the orderly resolution to systemically-important financial institutions in critical circumstances.

Independent Insurance Authority (IIA)

To modernize the insurance industry 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, HKC is establishing an IIA. The legislation for this purpose was introduced into the Legislative Council in April 2014.

Source: Information provided by the HKC authorities.

4.5.2.3 Trade and regulatory regimes for banking and other financial services

4.50. The trade and regulatory regimes of banking and other financial services (excluding insurance) in HKC have been described in detail in all previous TPR reports[33] and have only changed marginally since the previous TPR report in 2010. The main changes for banking services since then concern the following areas: two new free trade agreements containing extensive banking services commitments, the proposed extension of the supervision of the Hong Kong Monetary Authority to Stored Value Facilities (SVF) and Retail Payment Systems (RPS), the abolition of the minimum deposit requirement for establishing banking activities and the relaxation of licensing criteria for fully licensed foreign banks in terms of preliminary presence, prudential measures taken for the implementation of the core principle of the Basel Committee, development of proposals for legislative reform for establishing a cross-sectoral resolution regime for financial

[33] See WTO documents WT/TPR/S/52, November 1998, pages 71-75; WTPR/S/109, 18 November 2002, pages 55-58; WT/TPR/S/173/Rev.1, 13 March 2007, pages 82-87; and WT/TPR/S/241/rev.1, 25 January 2011, pages 63-67.

institutions in Hong Kong, China (jointly with other authorities), reinforcement of the bank deposit insurance scheme and enactment of legislation on anti-money-laundering.

4.51. Regarding "other financial services" (mainly securities, Mandatory Provident Fund Scheme, mutual funds) the main changes since the last TPR report concern provisions on shareholders' rights and disclosure for securities, the Securities and Futures Commission (SFC) Handbook for Unit Trusts and Mutual Fund, the securities and futures short position reporting rules, the Regulatory Regime for Credit Rating Agencies, the amendment of the trust law and the launch of a three-month public consultation on introducing a new Open-Ended Fund Companies structure (OFC) for mutual funds and assets management.

4.52. The HKC authorities have confirmed that the applied measures contained in the I-TIP services database for banking services remained valid (except for one, see below) and that the regime defined by the 2012 HKC-EFTA States FTA is applied on an *erga omnes* basis. On 12 July 2012, one of the restrictions contained in this regime and relative to a requirement of three continuous years of presence in Hong Kong, China under various legal forms for overseas banks seeking to establish a locally incorporated full licensed bank, was removed. This autonomous liberalization has been applied *erga omnes.* Box 4.6 recapitulates the GATS and the FTA commitments of HKC, while Boxes 4.7 to 4.9 describe the regulatory regime and the recent regulatory evolutions for banking services (Box 4.7), securities (Box 4.8) and mutual funds and asset management (Box 4.9) respectively.

Box 4.6 Trade regimes for banking services and other financial services

GATS commitments

- General horizontal reservation for all financial services

The commitments made with respect to mode 1 and mode 2 supply of financial services in this section of the Schedule do not signify a commitment to allow a service supplier from the territory of another Member to solicit business or to conduct marketing in Hong Kong, China.

Acceptance of deposits and other repayable funds from the public

Market access: mode 1: unbound; mode 2: none; mode 3: none other than that commercial presence must take the following forms:
(a) Banks incorporated overseas may apply for a licence to operate a full-license bank or a restricted-licence bank in the form of a branch subject to the following conditions: such banks may maintain (i) offices to which customers have access (physical or otherwise) for the purpose of banking business (or deposit-taking business in the case of a restricted-licence bank) and/or for the arranging or entering into of any other financial transactions in only one building ("Office" includes automated teller machines or similar terminal devices); and (ii) no more than two additional offices (other than an automated teller machines or similar devices) to which customers and others have access for the purpose of any other types of business in a separate building or buildings. Such additional offices may consist of not more than one regional office and one back office. This condition does not apply to banks incorporated outside HKC licensed before May 1978 in respect of full-licensed banks and before April 1990 in respect of restricted-licence banks;
(b) Limited companies incorporated by overseas banks in HKC may apply for a licence to operate as a full-licensed bank, restricted licence bank or deposit-taking company in the form of a subsidiary with branching rights. In the case of an application for a full banking licence, the institution must have been an authorized institution for at least ten years and be closely associated and identified with HKC. Overseas banks may also acquire an existing locally-incorporated bank with branching rights subject to consent of the Monetary Authority;
(c) Banks incorporated overseas may also set up representative offices in HKC, but such offices are prohibited from taking deposits and undertaking banking business in general, mode 4: intra-corporate transferee for managers and specialists.

Financial leasing/guarantees and commitments/advisory and other auxiliary financial services in all the activities listed in subparagraph 5(a)(v) to (xv) of the Annex on Financial Services (except commodity trading and investment advisory services)/provision and transfer of financial information, and financial data processing and related software by providers of other financial services

Market access: modes 1, 2 and 3: none; mode 4: intra-corporate transferee for managers and specialists; national treatment: modes 1 and 2: unbound; mode 3: none; mode 4: unbound.

Trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise the following: money-market instruments (cheques, bills, certificate of deposits, etc.)

foreign-exchange derivative products including futures and options exchange rate and interest rate instruments, including products such as swaps, forward rate agreements, etc., transferable securities

Market access: mode 1: unbound; mode 2: none; mode 3: none other than only corporations incorporated in HKC or natural persons born in HKC or resident in HKC for five of the preceding seven years, or partnerships composed of such persons, may become members of the Stock Exchange of Hong Kong Limited; only corporations incorporated in HKC may become members of the Hong Kong Futures Exchange; mode 4: intra-corporate transferee for managers and specialists.

Lending of all types/all payments and money-transmission services/asset management/participation in issues of all kinds of securities

Market access: mode 1: unbound; modes 2 and 3: none; mode 4: intra-corporate transferee for managers and specialists; national treatment: modes 1 and 2: unbound; mode 3: none (participation in issues of all kinds of securities: none other than that if registration as a dealer is required, as it is in the case of public issues, the limitations shall apply as for dealers; mode 4: unbound.

No GATS commitments for the following subsectors

Trading of other negotiable instruments and financial assets including bullion (x.F), money broking (xii), settlement and clearing for financial assets including securities, derivative products and other negotiable instruments (xiv).

Free-trade agreements commitments

HKC-EFTA States FTA (entered into force on 1 October 2012 for the part between Hong Kong, China, Iceland, Liechtenstein and Switzerland; 1 November 2012 for the part between Hong Kong, China and Norway).

- Appendix 1 of Annex X to the Agreement contains one reservation (I-HKC-14) to cover existing non-conforming measures to market access and national treatment obligations relating to parts of banking services (acceptance of deposits and other repayable funds from the public) by which all authorized institutions (i.e. licensed banks, restricted-licence banks and deposit-taking companies) shall maintain a physical presence in HKC. They must appoint a chief executive, and not less than one alternative chief executive, each of whom shall be an individual and ordinarily resident in HKC.

- The HKC authorities have indicated that on 12 July 2012, the second requirement contained in this reservation, requesting three continuous years of presence in HKC under various legal forms for overseas banks seeking to establish a locally-incorporated full-licensed bank, was removed. This autonomous liberalization has been applied *erga omnes*.

- HKC's commitments on securities and related services under the HKC-EFTA States FTA essentially reflect its GATS-commitments as defined in II-HKC-18, I-HKC-15 and I-HKC-16.

HKC–New Zealand Closer Economic Partnership Agreement (entered into force on 1 January 2011)

Annex 2 reservation for the right to adopt or maintain non-conforming measures to market access, national treatment, local presence and most-favoured-nation treatment obligations for cross-border services and investment for all financial services that are not inconsistent with HKC's obligations under Articles XVI, XVII and XVIII of GATS or with its Revised Offers on Services contained in the WTO document TN/S/O/HKG/Rev.1, 16 June 2005.

CEPA with Mainland China (entered into force on 29 June 2003)

- Paragraph 5 of Annex 4 to the CEPA with Mainland China stipulates that as from 1 January 2004, HKC will not impose any new discriminatory measures on Mainland's services and service suppliers in the areas where the Mainland has undertaken specific commitments on liberalization of trade in services for HKC. The initial scope of this standstill has been enlarged by successive supplementary commitments of China in the area of banking services contained in CEPA's supplements I, II, IV, V, VI, VII, VIII, IX and X. This standstill is applied to Mainland China only.

Applied trade regime

In line with the commitments under the HKC-EFTA States FTA, which are applied *erga omnes*.

Source: Information provided by the HKC authorities.

Box 4.7 Regulatory framework for banking services

Regulatory framework for banking services

No changes since the last TPR report in the following areas
Preferential arrangements affecting banking services, recognition of prudential measures of other countries through international agreements or unilaterally, the following aspects of licensing: licensing organ, limitation of number of licences, statutory maximum delay to process licence applications, validity of a licence, restrictions on banks selling or disposing of licences, minimum capital requirements to obtain a licence.

Supervisory authorities

Proposed extension of the supervision of the Hong Kong Monetary Authority to Stored Value Facilities (SVF) and Retail Payment Systems (RPS)

In light of the growing acceptance of innovative retail payment products and services, the Government considers it necessary to expand the current regulatory regime to cover SVF which are non-device-based (e.g. including mobile network-based accounts and computer network-based accounts) and important RPS. The Government intends to amend the Clearing and Settlement Systems Ordinance to cater for the new regulatory regime. The proposed legislative amendments seek to empower the Hong Kong Monetary Authority (HKMA) to implement a licensing regime for SVF and a designation regime for RPS, and to perform the relevant supervisory and enforcement functions with a view to ensuring adequate user protection and the safety and soundness of such facilities and systems in Hong Kong, China. The HKMA is working closely with the relevant government agencies on new legislation for the proposed new regulatory regime for SVF and RPS taking into account comments from industry participants and members of the public. The amendment bill is expected to be introduced to the Legislative Council in the second half of 2014.

Licensing

General criteria

The authorization criterion in relation to the minimum deposit requirement has been removed since 12 July 2012. A company seeking authorization to carry out banking business in HKC is no longer required to have total customer deposits of not less than HK$3 billion and total assets of not less than HK$4 billion.

Additional criteria for foreign banks

The following restrictions on foreign banks seeking to establish a locally-incorporated subsidiary to carry out banking business in Hong Kong, China have been removed since 12 July 2012:
- the requirement of such foreign banks to have been a deposit-taking company or a restricted-licence bank (or any combination thereof) for not less than three continuous years; and
- the requirement of such foreign bank to have been authorized to carry out banking business in Hong Kong, China (e.g. through a branch in HKC) for not less than three continuous years and make any necessary transfer of deposits and assets.

Prudential regulations

Measures to ensure compliance with the Basel Committee's Core Principles for Effective Banking Supervision: Basel III

In order to provide the legal framework necessary for the implementation of the Basel Committee's Basel III reform package, the Banking (Amendment) Ordinance 2012 was enacted in 2012 to empower the HKMA to make rules prescribing the capital, liquidity and disclosure requirements for authorized institutions and to approve and issue codes of practice to provide guidance for such rules. Further to the implementation of the first phase of Basel III capital standards (i.e. three revised minimum capital ratios computed with stricter definitions of regulatory capital and broadened counterparty credit risk coverage) and their associated disclosure requirements respectively from 1 January and 30 June 2014, the HKMA is preparing amendments to the Banking (Capital) Rules to implement capital buffer requirements, and amendments to the Banking (Disclosure) Rules to implement the leverage ratio disclosure requirements. The legislative process will begin in 2014.

In December 2010, the Basel Committee introduced two international liquidity standards, i.e. the Liquidity Coverage Ratio (LCR, which was further revised by the Committee in January 2013) and the Net Stable Funding Ratio (NSFR). The LCR is set for implementation in phases starting from 1 January 2015 (until full implementation by 1 January 2019) and the NSFR, 1 January 2018. The HKMA intends to follow the Basel Committee's timetable to implement these two liquidity standards in HKC. Consultations on liquidity policy proposals associated with the LCR were conducted in 2012 and 2013. The HKMA is developing Banking (Liquidity) Rules taking into account industry comments received from the consultations. The objective is to ensure that the local LCR rules will be in line with the Basel standard and suitable to the local banking environment. The legislation process will commence in 2014. Regarding the NSFR, the Basel Committee has conducted a public consultation on some proposed modifications to this ratio, which will be finalized later in 2014. Subject to the final decisions of the Committee on this standard, the HKMA will begin the relevant policy development process in due course, for implementation of the NSFR on 1 January 2018.

Financial Sector Assessment Programme (FSAP)

In May 2014, the IMF has concluded its examination of HKC under the FSAP and concluded that banks in Hong Kong, China were well positioned to absorb a significant realization of risks.[a]

Resolution regime

The Financial Stability Board's Key Attributes of Effective Resolution Regimes for Financial Institutions (Key Attributes) set new international standards designed to ensure that critical or systemic banks, and other types of critical or systemic financial institutions, can be allowed to fail safely in future without posing a threat to financial stability or public funds. All major financial centres, including HKC, are required to undertake the necessary legislative reform (by end-2015) to provide for a resolution regime that meets these standards.
The relevant authorities in Hong Kong, China, namely Financial Services and the Treasury Bureau (FSTB), as well as Hong Kong Monetary Authority (HKMA), Securities and Futures Commission (SFC) and Office of the Commissioner of Insurance (OCI), have jointly conducted a first stage of public consultation from January to April 2014. The authorities are developing proposals for the second stage of public consultation on legislative reform to fill gaps identified in the authorities' existing toolkits against the Key Attributes.

Specific provisions against money-laundering

Since the last TPR of Hong Kong, China in 2010, the regulatory reform measures for specific provisions against money-laundering in the banking sector are as follows:
- the Anti-Money-Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance (AMLO) and its guideline (the AML Guideline) on the new legislative and regulatory requirements came into effect on 1 April 2012. The AMLO provides (a) statutory backing for requirements relating to customer due diligence and record-keeping in relation to specified financial institutions, including authorized institutions; and (b) for the powers of relevant authorities (including the Hong Kong Monetary Authority) to supervise compliance with those requirements and other requirements under the AMLO.
- the AML Guideline provides (a) a general background on the subjects of money-laundering and terrorist-financing, including a summary of the main provisions of the applicable anti-money-laundering and counter-financing of terrorism (AML/CFT) legislation in HKC; and (b) practical guidance to assist financial institutions and their senior management in designing and implementing their own policies, procedures and controls in the relevant operational areas, taking into consideration their special circumstances so as to meet the relevant AML/CFT statutory and regulatory requirements.

Bank deposit insurance scheme

The Deposit Protection Scheme (DPS) was enhanced to provide a higher protection limit of HK$500,000 and to extend coverage to deposits pledged as security for banking services since 1 January 2011 to dovetail with the expiry of the full-deposit guarantee at the end of 2010. After raising the protection limit from HK$100,000 to HK$500,000, 90% of depositors in HKC are fully covered by the DPS. In light of the recent international trend in reforming speed of payout, enhancements for faster payout have been identified and are being implemented.

a For further elements, see the IMF report at: http://www.imf.org/external/pubs/ft/scr/2014/cr14130.pdf.

Source: Information provided by the HKC authorities.

Box 4.8 Regulatory framework for securities

Regulatory framework for securities
No changes regarding licensing.

Provisions on shareholders' rights in companies listed on the stock exchanges and on companies' obligations to disclose information

- the new statutory disclosure regime became effective 1 January 2013, under which all HKC-listed companies have a statutory duty to disclose inside information to the public in a timely manner. The SFC has been working closely with SEHK in monitoring the compliance of listed companies with the new statutory regime.
- the SEHK Corporate Governance Code was updated in January 2012 with, *inter alia*, new recommended best practices on Board evaluation of its performance and upgrading of best practices, to rules regarding the proportion of independent non-executive directors on the Board.[a]
- the new Companies Ordinance (Cap. 622) came into effect on 3 March 2014. A company is a separate legal entity, that is, it is a legal person in its own right and separate from its owners. The benefit of limited liability

through operating as a limited company also brings with it obligations insomuch as the company must comply with the various provisions of the Companies Ordinance (Chapter 622 of the Laws of Hong Kong, China). These obligations include the timely disclosure and reporting of specified information about the company, its officers and shareholders, etc., and any changes in such information to the Registrar of Companies so that members of the public have ready access to the latest information of the company kept by the Registrar of Companies.[b]

Securities and Futures Commission(SFC) Handbook for Unit Trusts and Mutual Funds

The SFC Handbook for Unit Trusts and Mutual Funds, Investment-Linked Assurance Schemes and Unlisted Structured Investment Products (Handbook) came into effect in June 2010. It was introduced by SFC after the global financial crisis with a view to strengthening the regulatory regime of publicly-offered investment products in HKC and enhancing the transparency of various types of products so as to promote investor protection, including a requirement to provide product key facts statements. Issuers of unlisted structured investment products must also offer a post-sale "cooling-off" period and arrange for market-making in accordance with the requirements, so that there will be an opportunity for investors to exit the investment. The Handbook includes revised product codes for unit trusts and mutual funds and for ILAS as well as a new product code for unlisted structured investment products.[c]

Securities and Futures Short Position Reporting Rules

While the HKC regulatory regime for short-selling activities has been robust, the Securities and Futures (Short Position Reporting) Rules came into effect in June 2012. Rules stipulate a new short position reporting regime, under which those who hold short positions in specific shares are required to report to the SFC. The Amendment Regulation sets out the offences and penalties under the new regime. The reporting regime will assist the SFC in collecting further market information, with a view to strengthening its ability to monitor short-selling activities in the market. This is conducive to maintaining HKC's financial stability and effectively reduces the risks that short-selling activities may bring to the market.

Regulatory regime for credit rating agencies

A regulatory regime for credit rating agencies operating in Hong Kong, China was implemented on 1 June 2011. Under the new regime, both corporate CRAs and their individual rating analysts must be licensed by the Securities and Futures Commission (SFC) and be subject to a CRA Code of Conduct. With the regime in place, credit ratings prepared by CRAs based in HKC continue to be serviceable in the European Union (EU). On 15 March 2012, the European Securities and Markets Authority (ESMA) announced that it considered the regulatory framework for CRAs in HKC to be in line with their regulation in the European Union (EU). Hence, European financial institutions may continue using credit ratings that have been prepared in HKC after 30 April 2012, for regulatory purposes.[d]

a For further elements, see: http://www.hkex.com.hk/eng/newsconsul/newsltr/2012/Documents/2012-01-12-E.pdf.
b For further elements, see: http://www.cr.gov.hk/en/compliance/obligations.htm.
c For further elements, see: http://www.sfc.hk/web/doc/EN/speeches/consult/q3c_consultation.pdf.
d For further elements, see: http://www.legco.gov.hk/yr10-11/english/subleg/brief/28_29_brf.pdf.

Source: Information provided by the HKC authorities.

Box 4.9 Regulatory framework for mutual funds and asset management

Regulatory framework for mutual funds and asset management

The only significant change since the last TPR report is the Trust Law (Amendment) Ordinance 2013, which seeks to bolster the competitiveness of HKC's trust services industry and attract settlors to set up trusts in HKC, in turn enhancing HKC 's status as an international asset-management centre in July 2013.[a]
It was followed, on 20 March 2014, by the launch of a three-month public consultation on introducing a new Open-ended Fund Companies structure (OFC). Currently, an open-ended investment fund may be established under the laws of HKC in the form of a unit trust but not in corporate form due to various restrictions on capital reduction under the Companies Ordinance (CO). In view of the international trend whereby the corporate fund structure has become more popular, it is proposed to enhance HKC's legal infrastructure for investment fund vehicles by introducing a new OFC structure to complement the existing unit trust structure.

a For further elements, see: http://www.legco.gov.hk/yr12-13/english/bills/brief/b04_brf.pdf.

Source: Information provided by the HKC authorities.

4.5.3 Transport services

4.5.3.1 Air transport

4.5.3.1.1 Statistical overview

4.53. Hong Kong, China is a regional and a global aviation hub both in terms of airport traffic (cargo and passenger) and the number of local airlines based there. HKC is the number one cargo airport in the world, and in 2012, the contribution of aviation services to GDP was 2.4%. Table 4.8 provides main economic indicators for aviation services in Hong Kong, China.

Table 4.8 Main economic indicators for aviation services in Hong Kong, China, 2008-13

Number of jobs supported (2008) Direct: 62,000 and indirect/induced: 124,000
Contribution to GDP (2008): 1.7% in 2008 and 2.4% in 2012
Scheduled airlines - Over 100 scheduled airlines operate 7,000 flights a week serving 180 destinations including 44 in Mainland China. - There are five designated Hong Kong airlines[a] totalling 218 aircraft providing scheduled passenger and/or all-cargo services. - Cathay Pacific Airways Limited (owned respectively by Swire Pacific Ltd: 45%, CITIC Pacific: 1.98 %, Air China Ltd: 29.99%, public shareholders: 23.03%) operates scheduled services to 72 destinations worldwide with a fleet of 137 aircraft and a turnover of HK$ 100,484 million. - Dragon Airlines Limited (owned 100% by Cathay Pacific Airways Ltd) operates scheduled services to 41 destinations in Asia (including 20 cities on the Mainland) with a fleet of 42 aircraft. - Hong Kong Airlines Limited (owned 100% by HKA Group Company Ltd) operates scheduled services to 37 destinations, mainly Asian cities, with a fleet of 23 aircraft. - Hong Kong Express Airways Limited (owned 100% by HKA Group Company Ltd) became a low-cost carrier from October 2013 and operated scheduled services to 15 destinations in Asia with a fleet of 5 aircraft. - AHK, Air Hong Kong Limited (owned respectively by Mapleback Ltd-itself at 100% subsidiary of Cathay Pacific: 60%, and Deutsche Post International B.V: 40%) operates dedicated freight scheduled services to 11 Asian destinations with a fleet of 11 aircraft.
Number of passengers (departures and arrivals) handled by the airport system (2013) 59.9 million (+6.1%)
Total tonnage of cargo handled by the airport system (2013) 4.13 million tonnes (+2.5%), Hong Kong International Airport (HKIA) currently has four cargo terminals, operated by Asia Airfreight Terminal Limited (AAT) and Hong Kong Air Cargo Terminals Limited (HACTL), in addition to a dedicated express cargo terminal operated by DHL Central Asia Hub. The newest cargo terminal operated by Cathay Pacific Services Limited, which started full operation in October 2013, further boosts HKIA's annual total handling capacity to around 7.4 million tonnes.
Business aviation services Hong Kong Business Aviation Centre (BAC) has a total site area of 16,000 m^2 and is equipped with an executive terminal and three hangars to provide customers with one-stop services, including passenger handling, flight planning and administration, ramp handling, customs, immigration and quarantine facilitation, into-plane fuelling, line-maintenance, catering and security.
Maintenance and repair 30 approved facilities, of which 21 approved by the Federal Aviation Administration and 19 approved by the European Aviation Safety Agency.
Computer reservation systems present: Amadeus, Abacus, Galileo, Worldspan.

a All designated airlines have met the designation criteria of "being incorporated and having its principal place of business in Hong Kong, China."

Source: Information provided by the HKC authorities.

4.5.3.1.2 Regulatory framework for aviation services

4.54. The FTA with the EFTA States contains a clause (Article 3.1.2 of Chapter 3), whereby the agreement will not be applicable to measures in respect of air transport services affecting air traffic rights, however granted, or measures affecting services directly related to the exercise of air traffic rights, except as provided for in paragraph 3 of the Annex on Air Transport Services to the GATS. The HKC-New Zealand Closer Economic Partnership Agreement (Article 2.3 of Chapter 13) does not apply to measures affecting air transport services or related services in support of air services, with the exception of the three auxiliary services set out in paragraph 3 of the Annex on Air Transport Services to the GATS. For the three auxiliary services explicitly covered by the GATS and the FTAs with the EFTA States and New Zealand, HKC has no GATS commitments; a broad reservation for future measures in the agreement with EFTA States and a more limited one (for aircraft repair and maintenance only) in the agreement with New Zealand. The regime applied varies according to the subsectors. While computer reservation services, selling and marketing services are not specifically regulated and do not face any restrictions in the GATS sense, aircraft repair and maintenance services are regulated specifically as the number of operators is limited for spatial constraints and qualifications reasons through franchise agreements. Box 4.10 describes in more detail the regulatory regime for these three subsectors.

Box 4.10 Regulatory framework for air transport services covered by the GATS

GATS commitments
No commitments.

Free-trade agreements commitments

HKC-EFTA States FTA (entered into force on 1 October 2012 for the part between HKC, Iceland, Liechtenstein and Switzerland; on 1 November 2012 for the part between HKC and Norway).

- no reservation for existing non-conforming measures.

- Reservation (II-HKC-24) for future measures non-conforming to the market access and national treatment obligations for "air transport services or related services in support of air services".
- Reservation (II-HKC-6) for future measures non-conforming to the market access and national treatment obligations for "rental/leasing services without operators relating to air transport".

HKC- New Zealand CEP Agreement (entered into force on 1 January 2011)

- Reservation for existing non-conforming measures.
- Reservation (II-HKC-23) for future measures non-conforming to the market access, local presence and most-favoured-nation treatment obligations for "air transport services or related services in support of air services" concerning aircraft repair and maintenance services for both cross-border service and investment.
- Reservation (II-HKC-5) for future measures non-conforming to the market access, national treatment, local presence and most-favoured-nation treatment obligations for "rental/leasing services without operators relating to aircraft" for both cross-border service and investment provided they are not inconsistent with HKC's obligations under Articles XVI, XVII and XVIII of GATS.

CEPA with Mainland China (entered into force on 29 June 2003)

- Paragraph 5 of Annex 4 to the CEPA with Mainland China stipulates that as from 1 January 2004, HKC will not impose any new discriminatory measures on Mainland's services and service suppliers in the areas where the Mainland has undertaken specific commitments on liberalization of trade in Services for HKC. The initial scope of this standstill, which covers aviation-related services, has been enlarged by successive supplementary commitments of Mainland China in the area of air transport services contained in CEPA's supplements I, II, III, IV, V, VI, VII, X. This standstill is applied to Mainland China only.

Applied regime

Aircraft repair and maintenance
This sector is subject to the reservation of Airport Authority Hong Kong's autonomy to set a ceiling on the total number of operators at the Hong Kong International Airport (HKIA), taking into account the physical constraints of the capacity of HKIA. Some franchise agreements signed by Airport Authority Hong Kong have set out the maximum number of operators to be allowed at HKIA during the franchise period.

Aircraft base maintenance and repair services are provided by Hong Kong Aircraft Engineering Co. Ltd (HAECO), China Aircraft Services Ltd (CASL), and Pan Asia Pacific Aviation Services Ltd (PAPAS). Self-handling by airlines on technical line maintenance and passenger handling services are allowed.

Computer reservation services
This activity is not subject to any sector specific regulation. There is no regulation or code of conduct on CRS screen displays.

Selling and marketing
This activity is not subject to any sector-specific regulation.

Source: Information provided by the HKC authorities.

4.55. For air transport services not covered by the GATS, the degree of openness varies, notably depending of the subsector. While self-handling, mutual handling and third-party handling are allowed for passenger services, cargo handling is limited to three franchises plus one express integrator allowed to self-handle. Certain ground-handling services cannot be provided by majority foreign-government-owned companies. The airport is 100% government-owned and managed by a statutory corporation required by law to conduct its business according to prudent commercial principles. Slot allocation follows standard IATA rules and is managed by a dedicated office. Local airlines have to meet the criteria of "being incorporated and having a principal place of business" in HKC. The charter policy subjects flying authorizations to an economic needs test taking into consideration existing scheduled services, and to a degree of reciprocity for foreign carriers. Charter flights cannot be advertised. The aero-policy is neutral between low-cost and full-services carriers and between start-up and incumbents. Traffic rights, when constrained, are allocated taking into account existing services. There is no specific all-cargo policy. Box 4.11 describes in more detail the regulatory regime for these aviation services.

Box 4.11 Regulatory regime for other aviation services

Ground-handling services

- For passenger services: self-handling, mutual handling and third party handling are allowed subject to the granting of a permit.
- For cargo services: self-handling and mutual handling are not allowed and third-party handling is franchised to three cargo terminal operators namely HACTL, AAT and CPSL (the latter being a subsidiary of Cathay Pacific) while DHL is allowed to provide self-handling express cargo services for the express cargo terminal it operates.
- Governments other than the Government of HKC may not hold majority shares or control franchisees that provide certain categories of ground-handling services at HKIA (namely air cargo, operation of the fuel system, operation of permanent aviation fuel facility, into plane fuelling services, and operation of the business aviation centre).

Airport services

- Hong Kong International Airport (HKIA) is operated by the Airport Authority Hong Kong (AAHK) under an aerodrome licence issued by the Civil Aviation Directorate. The AAHK is a statutory corporation wholly owned by the Government and is required under the Airport Authority Ordinance (Cap. 483) to conduct its business according to prudent commercial principles.
- The AAHK is authorized to conduct airport-related activities on the airport island, while outside activities are subject to restrictions in the Airport Authority (Permitted Airport-Related Activities) Order (Cap. 483).[a] Airport support services, such as ground handling, maintenance and repair of aircraft, or air cargo at the HKIA, are provided by third parties granted franchises by the AAHK through a competitive open bidding process. The AAHK periodically assesses the demand for services, and allows entry of additional operators if necessary.
- Self-handling by airlines is limited to passenger handling services and technical line maintenance. However, airlines are allowed to set up their own companies, including subsidiaries and joint-ventures, for participation in the tender exercise of the airport support services franchises.

Slots
Standard IATA rules apply. Hong Kong Civil Aviation Department, as the aeronautical authority, is responsible for schedule co-ordination and slot allocation. A dedicated office, the Hong Kong Schedule Coordination Office (HKSCO), is set up for the purpose.

Commercial aviation

National establishment rules

Carriers designated by Hong Kong, China have to meet the criteria of "being incorporated and having a principal place of business" in HKC. No policy change is anticipated.

Charter policy
- In conformity with Article 5 of the Chicago Convention applications for non-scheduled air services[b] for the carriage of passengers or cargo will normally be approved if the Director-General of Civil Aviation is satisfied

that the applicant has reasonably demonstrated that corresponding scheduled services cannot satisfy a genuine demand by providing the service or capacity required and, in the case of applications made by airlines based outside HKC, that the government of the country in which the airline is based, would accord no less favourable treatment to a Hong Kong-based airline making a similar application.
- Permits for non-scheduled services are granted on condition that the holder does not advertise such services for sale direct to the general public.

All cargo policy
No specific all-cargo policy. In general, HKC is prepared to consider removing restrictions on third and fourth freedom rights and exchanging fifth freedom rights for operation of both passenger and all-cargo services with aviation partners when it serves the overall interests of HKC.

Start-up and low-cost policies
With respect to the facilitation to new entrants, HKC provides a level-playing field for all carriers to operate services to and from Hong Kong, be they local or foreign, or full-service (FSC) or low-cost (LCC). Hong Kong Express became a low-cost airline in 2013 and 16 foreign low-cost airlines serve HKC.

- Where there is competition for limited traffic rights between a designated Hong Kong airline newly applying for designation to serve a route (the new entrant) and the incumbent designated Hong Kong airline(s) on the same route, the Government will examine the requests made by the new entrant in light of whether the route/market concerned is sufficiently mature, and whether the operation by the new entrant will add overall benefits to HKC. To assist new entrants to the market to foster healthy competition and allow wider choices to the HKC community, the Government may consider favorably requests made by the new entrants who wish to serve existing routes if the considerations are met on balance.

a Permitted activities include alliance or cooperation with other airports; acquisition of interests in other airports in Mainland China; provision of advisory or consultancy services to another airport; and operation of carriage and logistics services.
b Non-scheduled air services are sometimes regarded as charter services.

Source: Information provided by the HKC authorities.

4.56. With regard to bilateral air services agreements, the HKC Government follows a progressive liberalization policy. Such policy emphasizes more liberal market access and promotes competition in the public and HKC's aviation industry interest. Generally speaking, HKC is prepared to consider removing restrictions on third and fourth freedom rights and exchanging fifth freedom rights with aviation partners when it serves the overall interests of Hong Kong, China.

4.57. Hong Kong, China has bilateral air transport agreements in force with 59 partner-countries. The main features of these 59 agreements are described in Table 4.9 below.

Table 4.9 Air services agreements

Partner	Date	Entry into force	5th[a]	7th[b]	Cabotage[c]	Coop[d]	Designation[e]	Withholding[f]	Pricing[g]	Capacity[h]	Stat[i]	ALI 2011	ALI 2005
"Template 1" agreement (for the name of the 35 bilateral partners concerned and the dates of signature and entry into force of the relevant agreements, see footnote j)			Y	N	N	Y	M	PPoB	DA	PD	Y	21	21
"Template 2" (for the name of the 10 bilateral partners concerned and the dates of signature and entry into force of the relevant agreements, see footnote k)			N	N	N	Y	M	PPoB	DA	PD	Y	15	15
Israel	19.03.1998	08.09.1998	Y	N	N	Y	S	PPoB	DA	PD	Y	17	17
Japan	28.02.1997	18.06.1997	Y	N	N	Y	M	PPoB	ZP	FD	Y	34	18

Partner	Date	Entry into force	5th[a]	7th[b]	Cabotage[c]	Coop[d]	Designation[e]	Withholding[f]	Pricing[g]	Capacity[h]	Stat[i]	ALI 2011	ALI 2005
Kuwait, the State of	07.04.2004	01.03.2013	Y	N	N	N	M	PPoB	DA	PD	Y	18	..
Mauritius	03.07.1998	03.07.1998	N	N	N	N	M	PPoB	DA	PD	Y	12	12
Myanmar	04.03.1997	11.06.1997	N	N	N	N	M	PPoB	DA	PD	Y	12	12
Netherlands	17.09.1986	26.06.1987	Y	N	N	Y	M	PPoB	DA	other	Y	23	23
Oman	08.12.1998	26.3.1999	N	N	N	N	M	PPoB	DA	B1	Y	16	16
Pakistan	17.02.1998	17.02.1998	Y	N	N	N	M	PPoB	DA	PD	Y	18	18
Papua New Guinea	15.10.1998	29.01.2014	N	N	N	N	M	PPoB	DA	PD	Y	12	..
Philippines	26.05.1997	26.06.1997	N	N	N	N	M	PPoB	DA	PD	Y	12	12
Saudi Arabia, Kingdom of	22.11.2005	28.06.2010	Y	N	N	Y	S	PPoB	DA	PD	Y	17	..
United Arab Emirates	29.04.1998	29.04.1998	Y	N	N	Y	M	PPoB	DA	B1	Y	25	25
United Kingdom	25.07.1997	25.07.1997	Y	N	N	Y	M	PPoB	ZP	PD	Y	25	25
United States	07.04.1997	07.04.1997	Y	N	N	Y	M	PPoB	DA	B1	N	26	26

.. Not available.

a A yes indicates that fifth freedom rights, even limited ones, are granted.
b A yes indicates that seventh freedom rights, even limited ones, are granted.
c A yes indicates that cabotage rights, even limited ones, are granted.
d A yes indicates that there are clauses allowing cooperation between airlines, such as code share.
e "S" indicates that designation is single, "M" that it is multiple.
f Type of withholding clause: Substantial Ownership and Effective Control "SOE", Principal Place of Business "PPoB" or Community of Interest "COI".
g Type of pricing clause: Double Approval "DA", Double Disapproval "DD", Country of Origin (CoO), Zone Pricing "ZP", Free Pricing "FP".
h Type of capacity clause: Pre Determination "PD", Bermuda I "BI", Free determination "FD", other "O".
i A yes indicates that an exchange of statistics is foreseen by the agreement.
j Australia date of signature (s): 15.09.93, date of entry into force (eif): 15.09.93; Austria (s): 02.10.98, (eif): 01.12.98; Bangladesh (s): 24.10.00, (eif): 24.10.00; Belgium (s): 06.04.98, (eif): 01.07.03; Brazil (s): 06.09.91, (eif): 16.03.94; Brunei Darussalam (s): 09.01.89, (eif): 09.01.89; Cambodia (s): 17.01.00, (eif): 17.01.00; Canada (s): 24.06.88, (eif): 24.06.88; Denmark (s): 14.03.00, (eif): 14.03.00; Ethiopia (s): 24.10.06, (eif): 14.07.09; Finland (s): 14.01.00, (eif): 01.04.00; France (s): 20.08.90, (eif): 10.05.91; Germany (s): 05.05.95, (eif): 23.06.97; Hungary (s): 26.04.01, (eif): 19.11.01; Iceland (s): 09.08.04, (eif): 29.10.04; India (s): 10.10.96, (eif): 10.10.96; Indonesia (s): 06.06.97, (eif): 27.06.97; Italy (s): 09.10.96, (eif): 19.01.98; Jordan (s): 28.04.04, (eif): 28.08.04; Kenya (s): 21.05.04, (eif): 21.05.04; Korea, Rep. of (s): 29.03.96, (eif): 09.07.96; Lao PDR (s): 09.09.09, (eif): 09.09.09; Luxemburg (s): 03.06.98, (eif): 06.06.03; Malaysia (s): 04.03.91, (eif): 04.03.91; New Zealand (s): 22.02.91, (eif): 22.02.91; Norway (s): 02.06.00, (eif): 02.06.00; Qatar (s): 05.02.99, (eif): 16.12.13; Russian Federation (s): 22.01.99, (eif): 01.06.10; Seychelles (s): 24.06.13, (eif): 24.06.13; Singapore (s): 30.04.96, (eif): 30.04.96; South Africa (s): 18.03.00, (eif): 18.03.00; Sri Lanka (s): 24.02.93, (eif): 24.02.93; Sweden (s): 14.03.00, (eif): 14.03.00; Switzerland (s): 26.01.88, (eif): 01.02.93 and Thailand (s): 24.03.97, (eif): 12.06.97.
k Bahrain, Kingdom of (s): 03.03.98, (eif): 03.03.98; Croatia (s): 07.06.02, (eif): 30.01.03; Czech Rep. (s): 22.02.02, (eif): 26.04.02; Fiji (s): 03.12.09, (eif): 03.12.09; Maldives (s): 11.06.09, (eif): 11.06.09; Mexico (s): 20.11.06, (eif): 01.05.08; Mongolia (s) 24.05.00, (eif): 24.05.00; Nepal (s): 29.10.98, (eif): 29.10.98; Turkey (s): 02.04.98, (eif): 20.04.01; and Viet Nam (s): 10.09.99, (eif): 10.09.99.

Source: WTO QUASAR Database updated by the authorities.

4.58. None of these agreements grants seventh freedom (including for all cargo flights). They contain the most liberal ownership/withholding clause, i.e. of "principal place of business" as opposed to the standard restrictive clause of "substantial ownership and effective control." The remaining clauses (fifth freedom rights, cooperation, designation, capacity, pricing and exchange of statistics) feature variations. Cabotage rights are not applicable in HKC since it has only one airport.

4.59. With 35 of its partners, Hong Kong, China has used a template agreement, containing the liberal clauses of fifth freedom rights, multi-designation and cooperation and the restrictive clause of double approval of tariffs, pre-determination of capacity and exchange of statistics. The Air

Liberalization Index (ALI) score of that combination of clauses is 21 (out of a total of 50 possible points) corresponding to a semi-liberal agreement, quasi–open sky. The limitations of the Quasar methodology exaggerate the restrictiveness of the agreements concerned as the tariff clause and the exchange of statistics clause are often, in practice; *pro forma* and as the real restrictiveness of capacity depends not only on the procedure applicable but also on the levels of capacity granted, that are not factored into the methodology.

4.60. The second most frequent combination of clauses, used this time with 10 partners, scores an ALI of 15 and associates two liberal clauses (cooperation and multi-designation) and four restrictive clauses (absence of fifth freedom rights, double approval of tariffs, predetermination of capacity and exchange of statistics). Seven agreements feature scores close to this combination, three below at 12 (with the Philippines, Myanmar and Mauritius) and four above (with Oman -16-, Israel and the Kingdom of Saudi Arabia -17- and Kuwait -18-).

4.61. Five agreements are significantly more liberal than the two standard combinations of clauses - those with Japan, Netherlands, the United Arab Emirates, the United Kingdom and the United States - scoring respectively 34, 24, 25, 25 and 26. The four latter countries have traditionally followed an open-skies policy, while Japan, the first country on this list and the higher score, has recently embraced this policy.[34] The clauses generating these high scores vary: laxer capacity clauses for the Netherlands, United Arab Emirates and the United States, laxer pricing clauses for the United Kingdom, and a combination of both for Japan.

4.62. Agreements entered into force since 2005 (2005 being the preceding date at which an assessment of the aero-policy of all WTO Members was conducted[35]) do not exhibit any significant variations compared to this general pattern; four (with respectively the Seychelles, Ethiopia, Lao PDR and Qatar) adopted the 21 points combination, three (with respectively Fiji, Maldives and Mexico) the 15 points combination, while three exhibit show similar scores: the State of Kuwait 18, the Kingdom of Saudi Arabia 17, and Papua New Guinea 12.

4.5.3.2 Maritime transport

4.5.3.2.1 Statistical overview

4.63. Hong Kong, China is a major global maritime hub, with its port ranking number four in terms of container throughput after Shanghai, Singapore and Shenzhen in 2013. During that year, the Hong Kong Port (HKP) handled 22 million twenty-foot equivalent units (TEUs), of which 14 million TEUs were transhipped. HKP is a vital economic infrastructure of Hong Kong, China. It handles 90% of the freight in tonnage terms. In 2012, the port and related sectors directly contributed 1.3% (HK$26 billion) to Hong Kong, China's GDP and 2.4% (88,000 jobs) to total employment.

4.64. HKP is also vital in supporting the operation of the trading and logistics sector, which is one of HKC's four key economic pillars and accounts for approximately 25% (HK$495 billion) of its GDP and 21% (765,000 jobs) of total employment.

4.65. Hong Kong, China's has the fourth largest registry in the world in terms of tonnage, after Panama, Liberia and the Marshall Islands, with 2,065 merchant vessels of over 1,000 Gross Registered Tonnes (GRT), representing 138.13 million Dead Weight Tonnes (DWT) or 8.24% of the world fleet at 1 January 2014. It has maintained its rank since the last TPR Review. Favourable operating conditions and the cluster of maritime-related services offered by HKC, including specialized legal, insurance, ship brokerage and ship-management services, have attracted investment from global shipowners, which explains why a very large share of the tonnage of the registry (86.51%) is beneficially-owned by foreign interests.

4.66. In addition, HKC shipowners beneficially own a sizable fleet under flags other than the Hong Kong, China flag. This beneficially-owned fleet of 304 vessels over 1,000 GRT represented, 7.966 million DWT at 1 January 2014. In total, the fleet owned by HKC shipowners (under the HKC flag or under foreign flags) comprises 610 ships, representing 26.6 million DWT, i.e. 1.58% of

[34] See WTO document TPR/S/276/Rev.1, pages 101-103.

[35] See the Quasar profile of Hong Kong, China in WTO document S/C/W/270/Add.1, 30 November 2006, pages I.587 to I.594.

world tonnage, making it the eighth fleet in the world (after Greece, Japan, Mainland China, the United States, the United Kingdom, Chinese Taipei and Denmark). Hong Kong, China shipowners are mainly active in the bulk transport sector.

4.67. Table 4.10 describes in more detail HKC's maritime freight trade, while Table 4.11 describes the legal framework and the activities of its container terminals. Finally, Table 4.12 describes in more detail the HKC registry fleet and the fleet beneficially-owned by Hong Kong, China shipowners under flags other than the HKC flag.

Table 4.10 Hong Kong, China international maritime freight trade, 2012 and 2013

Merchandise trade	Volume (tonnes, 2013)		Value (2012 and 2013)		% of international trade (all modes of transport 2012 and 2013)	
	Imports	**Exports**	**Imports c.i.f.** HK$ million	**Exports f.o.b.** HK$ million	**Imports** %	**Exports** %
International maritime freight trade of which	162,275,000 tonnes (including imports *stricto sensu* and inward transhipment)	113,780,000 tonnes (including exports *stricto sensu* and outward transhipment)	2012 893,136 2013 882,449	2012 913,724 2013 878,294	2012 22.8 2013 21.7	2012 26.6 2013 24.7
	Imports (tonnes except for containers TEUs, 2013)[a]	**Inward transhipment (tonnes except for containers TEUs, 2013)[a]**	**Exports (tonnes except for containers TEUs, 2013)[a]**		**Outward transhipment (tonnes except for containers TEUs, 2013)[a]**	
Containers	4,486,000 TEUs	6,988,000 TEUs	4,124,000TEUs		6,755,000 TEUs	
Dry bulk[b]	40,112	1,196	15,740		1,458	
Liquid bulk	14,713	86	638		27	

a Figures may not add up to the respective totals due to rounding.
b Dry bulk included bulk cargo and unpacked solid bulk cargo.

Source: Census and Statistics Department publication.

Table 4.11 Hong Kong, China container terminals, 2013

Privately-managed terminals	Managing company(ies)	Volume (2013)	Date & duration of the contract
Kwai Tsing Container Terminals 1 to 9 of which		17,118,000 TEUs i.e. 77% of the total HKP container throughput	The Container Terminals 1-9 were granted by the Government of HKC for term under the existing leases up to year 2047
Terminals 4, 6, 7, 9 (North)	Hong Kong International Terminals Ltd (HIT)	No individual breakdown by operator or container terminal available	
Terminals 1, 2, 5, 9 (South) Modern Terminals Ltd (MTL)	Modern Terminals Ltd (MTL)	No individual breakdown by operator or container terminal available	
Terminal 8 (East)	COSCO-Hong Kong International Terminals Ltd (COSCO-HIT)	No individual breakdown by operator or container terminal available	
Terminal 3	Goodman DP World Hong Kong Limited	No individual breakdown by operator or container terminal available	

Public terminals		Volume (2013)	
Anchorages and buoys managed by the Marine Department (MD) of HKC	N/A	1.8 million TEU	N/A
Berths and wharfs (including public cargo working areas managed by the MD of HKC)		3.4 million TEUs[a]	
Future projects			
	A study is expected to be completed in next few months. Upon completion of the study, HKC will take into consideration the study results, the global and local economic situation, the performance of the port sector, and the views of stakeholders when deciding the need, (if there is a need) the timetable and the scale for CT10	N/A	N/A

a This also includes traffic at private berths and wharves, other than Kwai Tsing Container Terminals, however, breakdowns are made available.

Source: Information provided by the HKC authorities.

Table 4.12 Hong Kong, China registry and fleet, 2014

	Vessels		Tonnage	
	Number	**% of world fleet**	**Million dead weight tonnes**	**% of world fleet**
Hong Kong, China registry	**2065**	**4.33**	**138.13**	**8.24**
- of which beneficially-foreign-owned	1759	3.69	119.49	7.12
- Locally-owned	306	0.64	18.63	1.12
Fleet beneficially-owned by HKC shipowners under foreign flags	304	0.64	7.96	0.47
Total HKC-owned fleet (locally-owned under HKC flag + beneficially-owned under foreign flag)	610	1.28	26.59	1.58

Source: UNCTAD, *Review of Maritime Transport*, 2014, forthcoming.

4.5.3.2.2 Maritime transport regulatory framework

4.68. The trade regulatory regime of maritime transport services has been described in detail in all previous TPR reports[36] and has remained largely unchanged since the previous TPR report in 2010. The main changes since then concern the following areas: two new free-trade agreements containing maritime transport commitments, the competition regime with a new generic, non-sector-specific, legislation and the supply chain security initiative with the launch of an Authorized Economic Operator Scheme.

4.69. The HKC authorities have confirmed that the measures applied contained in the I-TIP services database for maritime transport services[37] remained valid and that the regime defined by the 2012 HKC-EFTA States FTA is applied on an *erga omnes* basis. Box 4.12 recapitulates the GATS and the FTA commitments of HKC, while Box 4.13 describes the applied regime as well as the recent main regulatory evolutions for the sector.

[36] WTO documents WT/TPR/S/52, 13 November 1998, pages 80-84; WTPR/S/109, 18 November 2002, pages 60-63; WT/TPR/S/173/Rev.1, 13 March 2007, pages 89-92; and WT/TPR/S/241/Rev.1, 25 January 2011, pages 70-73.

[37] WTO and World Bank joint online databases. Viewed at: http://i-tip.wto.org/services/.

Box 4.12 Bound trade regimes for maritime transport services

GATS commitments
- International maritime transport (excluding passenger transport and cabotage transport)

Market access: none for modes 1, 2 and 3; intra-corporate transferee for managers; executives and specialists for mode 4; national treatment: unbound for modes 1 and 2; none except exemption from income tax for international operations for HKC vessels for mode 3 and unbound for mode 4.

- Full access to/use of the nine port services defined by the maritime model schedule, namely pilotage; anchorage; berth and berthing services; towing and tug assistance; provisioning, fuelling and watering; garbage-collecting and ballast waste disposal; port captain's services; navigation aids; shore-based operational services essential to ships' operation including communications, water and electrical supplies and emergency repair facilities.
- Rental and leasing of vessels (limited to hiring a vessel with crew under charter-party terms for a voyage or a period of time).

Market access: unbound for mode 1; none for modes 2 and 3; intra-corporate transferee for managers; executives and specialists for mode 4; national treatment: unbound for modes 1 and 2; none except exemption from income tax for international operations for HKC vessels for mode 3 and unbound for mode 4.

- Maritime auxiliary services commitments (with specific definitions) on maritime cargo-handling services; storage and warehousing services; customs clearance services; container stations and depot services; maritime agency services; and maintenance and repair of vessels with the same entries namely: market access: unbound for mode 1; none for modes 2 and 3; unbound for mode 4; national treatment unbound for modes 1 and 2; none for mode 3; unbound for mode 4.

Free-trade agreements commitments

HKC-EFTA States FTA (entered into force on 1 October 2012 for the part between HKC, Iceland, Liechtenstein, and Switzerland; on 1 November 2012 for the part between HKC and Norway).

Full liberalization except for the following reservations:
- one reservation to cover an existing non-conforming measure to the national treatment obligation: the exemption from profits tax of income derived from international operation of ships registered in HKC. This reservation covers the sectors of passenger and freight transportation, rental/leasing services without operators relating to ships as well as rental of vessels with crew; this regime is applied *erga omnes* (I-HKC.5).
- HKC reserves the right to adopt or maintain any measures inconsistent with national treatment and market access obligations with respect to cabotage transport services and to the provision of certain port services[a] it being understood that such measures shall not deny international maritime transport suppliers reasonable and non-discriminatory access to these port services (so–called "GATS floor"). However, to-date no such measures exist (II-HKC.22).

HKC–New Zealand Closer Economic Partnership Agreement (entered into force on 1 January 2011)

Full liberalization except for the following reservations:
- one reservation to cover an existing non-conforming measure to the national treatment obligation: income derived from international operation of ships registered in the Hong Kong Shipping Register is exempted from HKC's profits tax. This reservation covers the sectors of passengers and freight transportation; rental of vessels with crew and rental/leasing services without operators relating to ships.
- HKC reserves the right to adopt or maintain any measures inconsistent with national treatment, market access, local presence and most-favoured-nation treatment for cross-border services and investment with respect to cabotage services, and to the provision of certain port services[a] where no measures shall be applied, which deny international maritime transport service suppliers reasonable and non-discriminatory access to these port services (so–called "GATS floor"). However, to-date no such measures exist (II-HKC.21).

CEPA with Mainland China (entered into force on 29 June 2003)
- Paragraph 5 of Annex 4 to the CEPA with Mainland China stipulates that as from 1 January 2004, HKC will not impose any new discriminatory measures on Mainland's services and service suppliers in the areas where Mainland China has undertaken specific commitments on liberalization of trade in services for HKC. The initial scope of this standstill has been enlarged by successive supplementary commitments of Mainland China in the area of maritime transport contained in CEPA's supplements I, II, IV, V,VI, X. This standstill is applied to Mainland China only.

a The list of those port services is the same as those on which HKC has undertaken access to/use of commitments in the context of the GATS, see above.

Source: HKC GATS Schedule of commitments and WTO-RTA-IS database.

Box 4.13 Applied regulatory regime for maritime transport

Applied regime

Cabotage
Vessels used solely within HKC waters are required to be licensed by the Marine Department under the Merchant Shipping (Local Vessels) Ordinance. This does not entail a flag obligation but HKC labour legislation must be abided by aboard those ships.

Registration policy
- No changes since the previous TPR: to fly the Hong Kong, China flag, the conditions are that "a majority interest in the ship is owned by a HKC citizen, or a HKC incorporated company, or a non-HKC company registered in HKC, or the ship is on charter to such a company"; a representative person, either the owner or a locally-incorporated ship management company, is appointed in relation to the ship.

- The total number of shipowners of HKC registered ships (Ocean Going Vessels) was 2,299 (including joint owners and disponent owners) as at 19 June 2014, of which: (i) HKC individual - 0.087%; (ii) HKC incorporation (1,284) - 55.85%; (iii) non-Hong Kong registered company (884) - 38.45%; (iv) overseas incorporation without non-Hong Kong company registration[a] (129) - 5.61%".

- There are no restrictions on the nationality of seafarers working on board HKC-registered ships provided their competency complies with the requirements of STCW Convention;
- The HKC flag does not give access to any specific subsidies nor to any specific cargoes (e.g. government cargo, ex/im bank-financed projects, food aid, or specific import or export cargo).

Access to port policy
HKC applies a full non-discriminatory policy regarding access to berths, ports dues, compulsory pilotage and pilotage fees.

Bilateral and plurilateral agreements
HKC has no bilateral or plurilateral agreement entailing cargo-sharing or preferential establishment onshore.

Onshore activities policy
HKC does not apply any specific restrictions to market access or national treatment (e.g. on the number of suppliers, volume and value of transactions, assets, number of persons employed, legal forms, foreign-ownership participation, land ownership or usage, discriminatory subsidies, residency, registration) on the exercise by foreigners of maritime activities onshore. In addition, there are no market-access and national-treatment restrictions for multimodal transport operators, general and bulk shipping lines, shippers, and intermediaries, to rent or lease trucks, railway carriages, or barges and related equipment for inland forwarding of cargo.

Competition policy
- Unlike in many other jurisdictions, there is no specific competition regime for maritime transport, which falls under the Generic June 2012 Competition Ordinance.

Support policy
HKC does not provide any support measures (such as subsidies, tonnage tax or second register) to the maritime transport sector. Income derived from the international operation of Hong Kong, China registered ships is exempted from profit tax.

Supply Chain Security initiative
HKC formally launched the Authorized Economic Operator (AEO) programme in 2012. The AEO programme represents a Customs-to-Business partnership to enhance international supply-chain security and facilitate movement of legitimate goods. It is a voluntary partnership initiative open to all stakeholders engaging in business principally related to the international supply chain.

a This category is for "Owner is not HKC company but demise charter is HKC company".

Source: Information provided by the authorities and ITIP services database.

4.5.3.2.3 Inland waterways transport

4.70. Inland waterways transport plays an important role for the feedering of high seas container vessels with cargoes originating from the Pearl River Delta in Mainland China. About 90% of the barges that ship cargo from Mainland China to HKC are registered in Mainland China. As at 31 December 2013, there was a total of 30 HKC-registered river trade cargo vessels with a tonnage of 21,328 GRT.

4.71. Table 4.13 compares and describes the traffic of ocean vessels, river cargo vessels and passenger ferry vessels for recent years.

Table 4.13 Port traffic, 2009-13

	2009	2010	2011	2012	2013
Arrival of vessels (number)					
Ocean vessels	33,157	32,645	32,490	30,703	29,915
River cargo vessels	89,750	91,039	84,695	78,094	77,374
River passenger ferry	82,598	88,129	87,485	82,062	80,251
Arrival of vessels (annual % change)					
Ocean vessels	-7.5	-1.5	-0.5	-5.5	-2.6
River cargo vessels	-10.8	1.4	-7.0	-7.8	-0.9
River passenger ferry	2.1	6.7	-0.7	-6.2	-2.2
Total freight movement ('000 tonnes)	242,967	267,815	277,444	269,282	276,055
of which:					
Seaborne (%)	66.5	68.0	70.3	70.1	66.7
River (%)	33.5	32.0	29.7	29.9	33.3
Total freight movement (annual % change)	-6.3	10.2	3.6	-2.9	2.5
Seaborne	-10.2	12.6	7.1	-3.1	-2.4
River	2.5	5.5	-3.8	-2.5	14.2
Total container throughput ('000 TEUs)	21,040	23,699	24,384	23,117	22,352
(annual % change)	-14.1	12.6	2.9	-5.2	-3.3
%age of containerization for seaborne cargo	76.9	79.7	80.4	80.4	80.5
Direct shipment	23.2	22.6	20.9	19.4	18.8
Transhipment	53.7	57.0	59.5	61.0	61.7

Source: Information provided by the HKC authorities.

4.5.4 Construction, architecture and real estate services

4.5.4.1 Statistical overview

4.72. In a territory where the land available for construction is extremely limited, where most of the construction is vertical and where building land per square metre fetched record prices records by global standards, the cluster composed by architecture services, construction services and real estate services is a key component of the local economy. For instance, construction alone accounts for 3.6% of GDP and 8.3% of employment, i.e. more than employment in financial services and proportionally more than in the construction sector in many developed economies.

4.73. Table 4.14 provides the main economic indicators available for these three sectors.

Table 4.14 Main economic indicators for construction, architecture and real estate services, 2009-13

Architecture

Practitioners
Number of architects: 3,074
Architects/inhabitant ratio: 0.04%
Number of architecture students: 946
Student architects ratio: 23.5%
Surveyors: 2,847
Engineers: 6,925

Foreign trade for architectural, engineering, scientific and other technical services
Exports (US$ mill.): 2009: 464; 2010: 482; 2011: 479; 2012: 509
Imports (US$ mill.): 2009: 178; 2010: 254; 2011: 319; 2012: 328

Construction

Share in GDP (%): 3.6% in 2012
Share in total employment: 8.3% in 2013
Spending on public construction projects (2013): HK$78 billion
Number of licenced foreign affiliates (more than 50% foreign owned): not available

Exports (US$ mill.): 2011: 143; 2012: 331
Imports (US$ mill.): 2011: 78; 2012: 322

Value-added of the building and construction sector (HK$ billion):
2009: 40.2; 2010: 53.5; 2011: 63.6
Business receipts and other income of the building and construction sector (HK$ billion):
2009: 10.4; 2010: 14.1; 2011: 16.5

Newly-completed private buildings (usable floor area in 1,000 sq. m.) (yearly total):
- Residential buildings: 2010: 611.6; 2011: 469.6; 2012: 557.2; 2013: 347.3
- Non-residential buildings: 2010: 527.6; 2011: 521.7; 2012: 837.3; 2013: 484.0

Real Estate

Turnover of the activity: not available
Employment in the activity: 128,000 i.e. 3.4% in 2013
Value-added (US$ mill.): 2009: 11,205; 2010: 11,445; 2011: 13,622; 2012: 15,070
Number of licensed real estate agents/agencies: 19,197; salesperson's licence: 16,769; estate agent's licence (individual): 3,017; estate agent's licence (company) (as at 31 December 2013)
Number of foreign licensed real estate agents/agencies: not available

Source: Information provided by the HKC authorities and UNCTAD-WTO trade in services database.

4.5.4.2 Trade and regulatory regimes for architecture, construction and real estate services

4.74. HKC has no GATS commitments for architecture services and limited commitments, sector-wise, for construction and real estate services. However the level of commitments made by HKC under the HKC-EFTA States FTA for these three sectors is completely open (no sector-specific reservation) for real estate services, and relatively open for architecture and construction services, with reservations covering relevant experience in HKC and residency requirements, and specific to construction services reservations listed in its second list to cover the right to adopt or maintain non-conforming measures to market access and national treatment in specific areas. The authorities have confirmed that there are no such measures for the time being and that the regime defined by this agreement was applied *erga omnes*. Mainland China benefits from a standstill via the CEPA. In addition, the authorities have confirmed that the applied measures listed in the I-TIP services database for these three sectors remained valid and had not changed.

4.75. The tables and boxes below describe in more detail the trade regimes and the regulatory framework of architectural services (Boxes 4.14 and 4.15), construction services (Table 4.15 and Box 4.16) and real estate services (Table 4.16 and Box 4.17).

Box 4.14 Trade regimes for architectural services

GATS commitments

Hong Kong, China has not undertaken any GATS commitments regarding architectural services and urban planning and architectural landscape services.

Free Trade Agreements commitments

HKC-EFTA States FTA: (entered into force on 1 October 2012 for the part between Hong Kong, China, Iceland, Liechtenstein and Switzerland; 1 November 2012 for the part between Hong Kong, China and Norway).

Full liberalization except for the following reservations:
- HKC has listed one reservation (I-HKC-2) for an existing non-conforming measure to the national treatment obligation: a one year relevant experience in HKC and residency requirement to be registered as registered architect. Reservation I-HKC-4 contains similar reservations for urban planning and architectural landscape services.

HKC – New Zealand Closer Economic Partnership Agreement (entered into force on 1 January 2011)

Full liberalization except for the following reservations:
- Reservations I-HKC-2 and I-HKC-4 are identical in substance to reservations I-HKC-2 and I-HKC-4 of the HKC-EFTA States FTA. The former applies to both cross-border services and investment with respect to national treatment and local presence obligations.

CEPA with Mainland China: (entered into force on 29 June 2003)

- Paragraph 5 of Annex 4 to the CEPA with Mainland China stipulates that as from 1 January 2004, HKC will not

impose any new discriminatory measures on Mainland's services and service suppliers in the areas where the Mainland has undertaken specific commitments on liberalization of trade in services for HKC. The initial scope of this standstill has been enlarged by successive supplementary commitments of Mainland China in the area of architectural services contained in CEPA's supplements II, V, VII, VIII, IX and X and in the area of urban planning and architectural landscape services in supplements II, V, VII, VIII and IX. This standstill is applied to Mainland China only.
Applied trade regime In line with the commitments under the HKC-EFTA States FTA which are applied *erga omnes.*

Source: HKC GATS Schedule and WTO RTA-IS database.

Box 4.15 Regulatory framework for architectural services

Main regulation

Laws of HKC, Chapter 408 "Architects Registration Ordinance"(ARO).[a]

Professional title

Section 30 of ARO stipulates that:

(1) a person whose name does not appear on the register shall not be entitled to describe himself as "architect" or "registered architect" or to use the initials "R.A." after his name.

(2) subject to subsection (3), the Board may apply to a judge for an order restraining any person whose name is not on the register from describing himself as "architect" or "registered architect" or using the initials "R.A.".

(3) a person whose name is not on the register may describe himself as an architect if:

(a) he describes himself by reference to an architectural discipline not related to the design, construction or fitting out of buildings; or

(b) he describes himself by reference to a membership of a body or institute of architects formed outside HKC which description does not imply that he has the right to practise architecture in HKC under the description of architect.

(4) subject to subsection (3), a person, including a firm or company shall not use the description of "architects" or "registered architects" or the initials "R.A." unless:

(a) at each place where the person carries on the business of architecture, the business is conducted under the supervision of a registered architect who does not act at the same time in a similar capacity for any other person other than a firm or company that has substantially the same beneficial ownership and management as the person (where the person is a firm or company);

(b) where the person carries on a multidisciplinary practice, the business, insofar as it relates to architecture, is under the full time control and management of a registered architect who does not act at the same time in a similar capacity for any other person other than a firm or company that has substantially the same beneficial ownership and management as the person (where the person is a firm or company).

The Licensing Authority is also the Architects Registration Board. The criteria and procedure are set by Sections 13 to 16 and 30 of the Ordinance.

Inscription in the professional register

Generic regime

The inscription in the professional register is compulsory. The registering body is the Architects Registration Board. The procedure and criteria are set by Sections 13 to 16 of the ordinance. They are essentially based on qualification requirements.

Specific conditions applicable to foreign architects

- The condition contained in Section 13.1.a.iii "has passed such examination in architecture and other subjects and has received such training and experience as the Board may accept either generally or in a particular case as a qualification of a standard no less than that of a member of the institute" implies that foreign architects have to pass the local exam for architecture (HKIA-ARB Professional Assessment or HKIA-ARB Professional Induction Workshop for non-local professionals) to obtain registration and the professional title.

Licensing of architects

Generic regime

- The granting of an architect licence is a distinct and subsequent step to the inscription in the professional register. It confers the right of signing and certifying. It is not granted automatically as less than 50% of registered architects are licensed. It is subject to additional requirements. Those requirements are applied on a non-discriminatory basis since the regime is not differentiated between local and foreign architects.

Number of foreign architects having been licensed to exercise

- Data and statistics for categorizing "foreign architects" are not available. There is in practice a large combination of origin, qualification and experience amongst the Registered Architects, such as national with local or foreign qualification, foreigners with local or foreign qualification, dual-residency or dual-nationality architects with local or foreign qualification. Furthermore, many of them have experience from both overseas and Hong Kong, China.

Conditions of registration for foreign architects If a foreign architect wishes to apply for registration as a Registered Architect in Hong Kong, China, he must fulfill the qualification as stated in Section 13 of ARO. Assuming he possesses the academic qualifications required, he must be "ordinarily resident in HKC" (i.e. proof of residential address) and "satisfy the Board that he has one year's relevant professional experience in Hong Kong, China before the date of his application for registration".
Possibility for foreign architects to exercise independently Yes. Under the laws of Hong Kong Chapter 123 "Buildings Ordinance", the governance of building plan submission requires the appointment of an Authorized Person (AP). Being a Registered Architect is one of the requirements to apply for AP qualification. If a foreign architect has attained AP qualification, he has the right to exercise independently.
Preferential policies (Mutual Recognition Agreements) No.

a For the text of the legislation, see: http://www.legislation.gov.hk/blis_pdf.nsf/6799165D2FEE3FA94825755E0033E532/8D62C73D8515D8B3482575EF00046EA6?OpenDocument&bt=0.

Source: Information provided by the HKC authorities.

Table 4.15 Trade regimes for construction services

GATS commitments HKC commitments regarding construction services are limited to (1) interior design services: these are limited to specialized consulting services related to the post-construction design and fitting-out of interior living and working spaces (part of D "Building Completion and Finishing Work") and (2) project management services: [themselves] limited to the supervision and coordination of construction projects but do not cover engineering or architectural services (part of E) "Other") with the same regime: Market access: modes 1 and 4: unbound; mode 2 and 3: none National treatment: modes 1, 2 and 4: unbound; mode 3: none
Free-trade agreements commitments HKC-EFTA States FTA (entered into force on 1 October 2012 for the part between Hong Kong, China, Iceland, Liechtenstein and Switzerland; on 1 November 2012 for the part between Hong Kong, China and Norway). Full liberalization except for the following reservations: - HKC has listed one reservation (I-HKC-10) for an existing non-conforming measure to the market access and national treatment obligations for general construction work for civil engineering (CPC 513 - not covered by HKC's GATS commitments) requiring preliminary experience acquired in Hong Kong and residency for all "statutory building agents" i.e. for professionals having the monopoly of carrying out non-exempted construction and building works in the private sector[a] namely Authorized Persons (AP), Registered Structural Engineers (RSE), Registered Geotechnical Engineers (RGE), Registered Contractors (RC), and Technically competent Persons (TCP), Registered Inspectors (RI) and Qualified Persons (QP). - HKC has listed a reservation (II-HKC-15) to cover any future non-conforming measures with the market access and national treatment obligations except for general construction work for civil engineering (CPC 513) where I-HKC-10 applies, and for the subsectors covered by HKC's GATS commitments (see above). - HKC has also listed a reservation specific to railway construction services (II-HKC-25) reserving the right to adopt or maintain any non-conforming measures to the obligations of market access and national treatment. - HKC authorities have confirmed that so far no such Annex II non-conforming measures exists and that the regime defined by this agreement is applied *erga omnes*.
HKC–New Zealand Closer Economic Partnership Agreement (entered into force on 1 January 2011) Full liberalization except for the following reservations: - Reservation I-HKC-9 is identical in substance to reservation I-HKC-10 of the HKC-EFTA States FTA. The former applies to both cross-border services and investments with respect to market access, the national treatment and local presence obligations. - Reservation II-HKC-12 reserves the right to maintain or adopt any non-conforming measures to the obligations of market access, national treatment and local presence for certain construction and related

engineering services for cross-border services and investments that are not inconsistent with HKC's obligations under Articles XVI, XVII and XVIII of GATS or with its revised DDA offer (TN/S/O/HK/Rev.1, 16 June 2005). - Reservation II-HKC-25 reserves the right to maintain or adopt any non-conforming measures to the obligations of market access, national treatment, local presence and most-favoured-nation treatment for cross-border services and investment for railway construction and project implementation. CEPA with Mainland China (entered into force on 29 June 2003) - Paragraph 5 of Annex 4 to the CEPA with Mainland China stipulates that as from 1 January 2004, Hong Kong, China will not impose any new discriminatory measures on Mainland's services and service suppliers in the areas where Mainland China has undertaken specific commitments on liberalization of trade in services for HKC. The initial scope of this standstill has been enlarged by successive supplementary commitments of China in the area of construction and related engineering services contained in CEPA's supplements I, VI and X. This standstill is applied to Mainland China only.
Applied trade regime In line with the commitments under the HKC-EFTA-states FTA, which are applied *erga omnes*.

a The Buildings Ordinance (Cap. 123) Section 41 lists the scope of exempted buildings works for private building sector.

Source: HKC GATS Schedule and WTO RTA-IS database.

Box 4.16 Regulatory framework for construction services

Licensing, authorization or registration requirements and procedures (including pre-qualifications standards and qualification rating systems) For public works construction (i) Construction companies require: a Business Registration Certificate and a Certificate of Registration of Non-HKC Company. - Licence requirements include: employment of the minimum number of full-time management and/or technical personnel with relevant qualifications and experience in engineering and project management prescribed in the relevant category of construction works. (ii) Approval from the Secretary for Development for admission to a list of 55 categories of construction works (5 general construction and 50 specialty construction work). Most of the categories of construction works are each sub-divided into group(s) with thresholds of tendering limit set for: - a construction firm on the list shall regularly provide the Secretary for Development with up-to-date company and financial information for reviewing its listing status; - a construction firm on the list shall submit a tender within a period of three years, failing which it will be removed from the relevant list unless other special circumstances warrant; - the admission process is non-discriminatory. For private building projects All private buildings and building or street works in Hong Kong, China are subject to the control of the Buildings Ordinance, unless exempted. Any person who intends to carry out building works is required by law to appoint an authorized person, and where necessary, a registered structural engineer. If the building works at any stage involve geotechnical elements, a registered geotechnical engineer is needed to prepare and submit plans for the approval of the Building Authority under the Buildings Ordinance. He is also required to appoint a registered contractor to carry out the building works. The Buildings Ordinance therefore ,covered most of the licensing, authorization or registration requirements.
Professional qualification requirements and procedures For public works construction Appointment of resident management staff who possess a minimum period of local experience in managing a construction firm and technical staff who have acquired the relevant academic qualifications and local working experience as prescribed in the relevant category of construction works. For private building projects Building professionals are required to be registered under the Buildings Ordinance before they are qualified to perform duties and functions under the Buildings Ordinance so as to ensure compliance with the statutory safety, health and environmental standards for private building works and street works. They comprise authorized persons, registered structural engineers, registered geotechnical engineers and registered inspectors, who must be registered architects, registered professional engineers in the relevant disciplines/divisions and registered professional surveyors under the respective Professional Registration

Boards. They must possess relevant local experience.
Except for exempted works, contractors are also required to be registered under the Buildings Ordinance before they are qualified to perform the duties of a registered general building contractor/a registered specialist contractor/a registered minor works contractor to carry out any private building works or street works. They must have the appropriate experience, qualifications and general knowledge of the basic statutory requirements. They must also possess relevant local experience.

Specific standards and restrictions on the cross-border use of equipment and material: none

Competition policy
The Competition Ordinance seeks to prohibit anti-competitive conduct that prevents, restricts or distorts competition in all sectors in HKC, including the construction sector. Serious anti-competitive conduct such as bid-rigging is regulated under the Ordinance.

"Green" public procurement rules
The government policy requires due environmental consideration to be given when procuring goods and services, including construction services. Electronic dissemination of invitation documents and submission of tender documents are permitted. Emphasis is also given to the avoidance of single-use disposable items and promote environmentally-friendly construction products.

Source: Information provided by the HKC authorities.

Table 4.16 Trade regimes for real estate services

GATS commitments

HKC commitments on real estate services are limited to "the provision, on a fee or contract basis, of management services for residential or commercial buildings which in turn consist of cleaning, maintenance and guarding of such buildings".
Market access: modes 1 and 4: unbound; modes 2 and 3: none
National treatment: modes 1, 2 and 4: unbound; mode 3: none

Free-trade agreements commitments

HKC-EFTA-States FTA (entered into force on 1 October 2012 for the part between Hong Kong, Iceland, Liechtenstein and Switzerland; 1 November 2012 for the part between Hong Kong and Norway)

Full liberalization as this Agreement contains no sector-specific reservations regarding real estate services:

- HKC-New Zealand–Closer Economic Partnership Agreement (entered into force on January 2011)

Full liberalization as this Agreement contains no sector-specific reservations regarding real estate services:

CEPA with Mainland China (entered into force on 29 June 2003)

- Paragraph 5 of Annex 4 to the CEPA with Mainland China stipulates that as from 1 January 2004, Hong Kong, China will not impose any new discriminatory measures on Mainland's services and service suppliers in the areas where Mainland China has undertaken specific commitments on liberalization of trade in services for HKC. The initial scope of this standstill has been enlarged by successive supplementary commitments of China in the area of real estate services contained in CEPA's supplements IV, VI and X. This standstill is applied to Mainland China only.

Applied trade regime
In line with the commitments under the HK-EFTA-States FTA which are applied *erga omnes.*

Source: HK GATS Schedule and WTO RTA-IS database.

Box 4.17 Regulatory framework for real estate services

Licensing regime

- The activity is subject to a licensing regime and governed by the Laws of HKC, Chapter 511, Estate Agents Ordinance.[a]
The licence is granted by the Estate Agents Authority (http://www.eaa.org.hk), a statutory Body established under the Estate Agents Ordinance.

- The criteria used are the following:
(i) to be at least 18 years old (ii) to possess a Hong Kong Form 5 of secondary education or its equivalent; (iii) to have passed the qualifying examination, and (iv) to be considered a "fit and proper" person by the Estate Agents Authority.
The average length of the process is 10 working days for new applications and 20 working days for renewal

applications.
- There is an appeal procedure before the Appeal Panel.
- Applicants may choose to apply for a 12-month licence or a 24-month licence.

Recognition of foreign qualifications
Subject to one exception, no exemption to the requirements listed in "criteria" above; in other words, a foreign licensing qualification is not recognized and cannot be used to satisfy or fulfil the requirements listed in the "criteria". The only exception is for qualified estate agents of the China Institute of Real Estate Appraisers and Agents under the Mutual Recognition Scheme.[a]

Financial guarantees required
None.

a For more elements on this mutual recognition scheme, see: http://www.eaa.org.hk/Licensing/Mutualrecognition/tabid/98/language/en-US/Default.aspx.

Source: Information provided by the HKC authorities.

4.5.5 Distribution services

4.5.5.1 Statistical overview

4.76. Distribution is a major and vibrant sector in the economy of Hong Kong, China representing approximately 10% of total employment and nearly 5% of GDP in 2012. Numerous foreign distributors are present but the supermarket segment is largely dominated by local interests. Traditional open-air fresh food markets ("wet markets") remain an important component of Hong Kong, China distribution system.

4.77. Table 4.17 provides the main economic indicators for distribution services in Hong Kong, China.

Table 4.17 Main economic indicators of the distribution sector, 2009-12

Number of employees Wholesale: 64,000 in 2010; 64,400 in 2011; 64,000 in 2012 Retail: 297,400 in 2010; 304,300 in 2011; 317,600 in 2012
Number of companies Wholesale: 14,900 in 2010; 15,100 in 2011; 14,900 in 2012 Retail: 60,600 in 2010; 63,300 in 2011; 63,900 in 2012
Share in total GDP of wholesale and retail trades: 2009: 3.8%; 2010: 4.1%; 2011: 4.8%; 2012: 5.0% Share in total GDP of wholesale trade: 2009: 0.8%; 2010: 0.9%; 2011: 0.9%; 2012: 0.9% Share in total GDP of retail trade: 2009: 3.0%; 2010: 3.2%; 2011: 4.0%; 2012: 4.1%
Share of total employment Wholesale: 1.8% in 2010-12 Retail: 8.5% in 2010-11; 8.7% in 2012
Value-added of wholesale and retail trades, and accommodation and food services sectors (HK$ billion): 2009: 174.6; 2010: 197.9; 2011: 232.9 Business receipts and other income of wholesale and retail trades, and accommodation and food services sectors (HK$ billion): 2009: 1,458.7; 2010: 1,605.6; 2011: 2,005.0
Total number of retail establishments: 53,094 Grocery sales (2011): HK$79.3 billion Number of grocery outlets and convenience stores (2011): 2,100 Top four large grocery stores (i.e. from 150 to 5,000 square metres) chains: The Group; Dairy Farm Group; China Resource Group; and Jusco/AEON Group

Number of operators of mid-size (i.e. from 40 to 1,000 square metres) grocery stores single operators: 69

Number of supermarkets *stricto sensu* (2011): 77

Market share of these supermarkets (2011):
In terms of retail sales, supermarkets (with a value of retail sales of HK$49,131 million) accounted for 9.9% of the total retail sales from all retail outlets (HK$494,451million). This figure includes both supermarkets and convenience stores.

Top four operators of large supermarket chains and mid-sized grocery stores:
Wellcome (280+ outlets); A.S. Watson-owned supermarkets under the brands of ParknShop, International, Taste, Fusion, Gourmet, Great and SU-PA-DE-PA (260 stores in Hong Kong, China and Macau, China); CR Vanguard (95 outlets); Market Place by Jasons (26 outlets).

Top four discounters (2013):
Kai Bo Food Supermarket (86 outlets); Dah Chong Hong (90+ outlets); PrizeMart (23 outlets) and Kai Hing Supermarket (estimated at 9 outlets).

Number of convenience stores: 1,300

Top convenience store-chains (2013):
7-Eleven (900+ outlets); Circle K (328 outlets); Van Go (80)

"Wet" markets: 197 outlets (link REIT[a]: 102; FEHD: 95[b])

Other major retailers:
AEON Stores (HKC) Co. Limited (foreign-owned); YATA (part of Sun Hung Kai properties); Sogo, (owned and operation by Lifestyle International Holdings Limited, a listed company in Hong Kong, China); Uniqlo (foreign-owned); Citysuper (part of Fenix group, a HKC registered company); Muji (foreign-owned); Ikea (operated in franchise by Dairy Farm); H&M; C&A; Inditex.

a The Link Real Estate Investment Trust (Link REIT) owns and manages 11 million square feet of retail space in purpose-built shopping malls. Link REIT emerged as a dominant operator at the beginning of the century with the privatization of the retail portfolio of the Housing Authority (HA).
b The Food and Environmental Hygiene Department (FEHD) manages in conjunction with the Housing Authority (HA) HKC public markets.

Source: UNSD, ILO, WTO estimates based on national sources and information provided by the HKC authorities, March 2014.

4.5.5.2 Trade regulatory regimes

4.78. While Hong Kong, China has undertaken GATS commitments only on part of retail services, its trade-regulatory regimes for distribution appear very liberal and the sector is largely unregulated. For instance, there is no specific regulation establishing economic needs tests for the creation of supermarkets or any legislation regulating market access for franchising.

4.79. The liberal regime defined in the HKC-EFTA Free Trade Agreement is applied *erga omnes,* and while this Agreement, which adopts a negative list approach for services commitments, contains a reservation for future non-conforming measures for "other distribution services", no such measures exist for the time being. Mainland China benefits for its part from a standstill on HKC's measures on distribution, where boundaries are defined by the scope of the concessions granted in this sector by Mainland China to HKC service suppliers in the CEPA and in its successive supplements. HKC market access and domestic regulation regimes for distribution have not significantly changed since the last TPR report in 2010 and are described in more detail in Table 4.18.

Table 4.18 Regulatory regimes of distribution services

GATS commitments

Hong Kong, China has undertaken GATS commitments only for retailing services (item 4.C of the MTN/GNS/W/120 standard GATS Nomenclature), defined narrowly and *sui generis* as "limited to the resale (sale without transformation) of certain new and used consumer goods to the general public, which are normally used for final personal or household consumption or utilization by department stores, shops, consumer cooperative and auction houses with the following limitations:

Mode 1 market access and national treatment unbound; mode 2 market access: none, national treatment: unbound; mode 3 market access and national treatment: none; mode 4 market access and national treatment: unbound.

Free-trade agreements commitments

HKC-EFTA States FTA (entered into force on 1 October 2012 for the part between Hong Kong, China, Iceland, Liechtenstein and Switzerland; on 1 November 2012 for the part between Hong Kong, China and Norway).

Full liberalization except for the following reservations:

- no reservation for existing non-conforming measure on distribution services; this regime is applied *erga omnes*;
- Hong Kong, China reserves the right to adopt or maintain any measures with respect to the "other distribution services" as defined by document MTN/GNS/W/120; however, to date no such measures exist (II-HKC-16);
- Except in respect of specified services, Hong Kong reserves the right to adopt or maintain any measures with respect to energy services including the importation, generation or manufacture, transmission, distribution, storage, supply, sale and use of energy (II-HKC-8).

Hong Kong, China–New Zealand Closer Economic Partnership Agreement (entered into force on 1 January 2011)

Full liberalization except for the following reservations:

- no reservation for existing non-conforming measure on distribution services; this regime is applied *erga omnes*;
- Hong Kong, China reserves the right to adopt or maintain any measures with respect to energy services including the importation, generation or manufacture, transmission, distribution, storage, supply, sale and use of energy.

CEPA with Mainland China (entered into force on 29 June 2003)

- Paragraph 5 of Annex 4 to the CEPA with Mainland China stipulates that as from 1 January 2004, Hong Kong, China will not impose any new discriminatory measures on Mainland's services and service suppliers in the areas where the Mainland has undertaken specific commitments on liberalization of trade in services for Hong Kong, China. The initial scope of this standstill, which covers franchising services[a], has been enlarged by successive supplementary commitments of China in the area of distribution contained in the CEPA supplements I, II, III, IV, V, VI, VII, VIII, IX, X[b] This standstill is applied to Mainland China only.

Applied regime

Legislation on exclusive rights or on limitations of number of suppliers
None.

Establishment legislation (including large-scale stores and supermarkets)

Investments in retail business are business decisions. There are no economic needs test and/or any square feet/metres limitations. But, apart from safety requirements and business incorporation requirements which also apply to other retail businesses, supermarket operators do have to abide by some requirements such as the following:
- an Outline Zoning Plan sets out the land-use zones and may stipulate restrictions on development intensity in terms of plot ratio or gross floor area on the development(s) falling within a land-use zone. A supermarket falling within such a land-use zone may be subject to those restrictions;

- in addition, supermarkets selling items of restricted food specified in Schedule 2 of Cap.132 are required to apply for the relevant food business licence(s) and/or restricted food permit(s) from the FEHD. The operators must comply with the relevant licensing requirements in relation to food and premises hygiene before a licence/permit is granted.

Legislation on franchising
None.

Zoning/urbanism legislation Town Planning Ordinance, Cap 131 (link to Cap 131 attached below). The areas covered by an Outline Zoning Plan are in general zoned for uses such as residential, commercial, industrial, green-belt, government/institution/community uses or other specified uses and a Schedule of Notes is attached showing the uses that are always permitted in a particular zone and uses that may be permitted with or without conditions on application to the Town Planning Board. So-called Column 1 uses refer to those uses that are always permitted while so-called Column 2 uses refer to uses where planning permission from the Town Planning Board is required. When considering a planning application, the Town Planning Board would take into account the planning intention for the zone and other relevant planning considerations such as land use compatibility and the impacts in terms of traffic, environment, landscape, urban design, etc., generated by the proposal. The Town Planning Board will also take into account the views of the relevant government departments and have regard to public comments on the application during the public inspection period.

a The detailed initial CEPA commitments for distribution were viewed at: http://www.tid.gov.hk/english/cepa/tradeservices/fra_liberalization.html.

b Listed and viewed at: http://www.tid.gov.hk/english/cepa/tradeservices/dis_liberalization.html.

Source: Based on information provided by the authorities.

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5 APPENDIX TABLES

Table A1. 1 Merchandise re-exports by HS sections and major HS chapters, 2010-13

HS Section	HS Chapter	2010	2011	2012	2013
Total (US$ billion)		**381.2**	**420.3**	**435.2**	**451.9**
		(% of total)			
01 Live animals and products		0.7	0.6	0.5	0.6
02 Vegetable products		0.4	0.5	0.5	0.5
03 Fats and oils		0.0	0.0	0.0	0.0
04 Prepared food, beverages and tobacco		0.5	0.5	0.5	0.5
05 Mineral products		0.1	0.2	0.2	0.2
06 Chemicals and products thereof		1.8	1.9	1.8	1.5
07 Plastics and rubber		3.6	3.4	3.3	3.2
	39 Plastics and articles thereof	3.4	3.2	3.2	3.1
08 Raw hides and skins; leather, furskins and articles thereof		2.5	2.6	2.5	2.4
09 Wood, cork, straw		0.1	0.1	0.1	0.1
10 Pulp of wood; paper and paperboard		0.9	0.8	0.7	0.7
11 Textiles and textile articles		8.8	8.1	7.2	6.9
	61 Clothing, knitted or crocheted	3.2	2.9	2.6	2.4
	62 Clothing, not knitted or crocheted	2.7	2.5	2.3	2.1
12 Footwear, headgear, etc.		1.7	1.5	1.4	1.2
13 Articles of stone, plaster, cement		0.3	0.5	0.5	0.7
14 Precious stones and metals, pearls		5.2	6.5	6.0	6.1
15 Base metals and articles thereof		2.5	2.3	2.0	1.8
16 Machinery, electrical equipment		61.2	60.9	62.9	64.4
	84 Machinery and mechanical appliances	14.4	14.8	15.7	14.9
	85 Electrical machinery	46.8	46.1	47.2	49.5
17 Transport equipment		0.5	0.5	0.4	0.4
18 Precision instruments		5.6	5.7	6.0	5.9
	90 Optical, measuring, and other precision instruments	3.6	3.6	3.8	3.7
	91 Clocks, watches and parts thereof	1.9	2.1	2.2	2.2
19 Arms and ammunition		0.0	0.0	0.0	0.0
20 Miscellaneous manufactured articles		3.5	3.3	3.2	2.7
	95 Toys, games and sports requisites	2.9	2.8	2.6	2.1
21 Works of art, collectors' pieces and antiques		0.1	0.1	0.1	0.1
Not classified		0.1	0.1	0.1	0.1

Source: WTO calculations, based on data provided by the HKC authorities.

Table A1. 2 Merchandise domestic exports by HS sections and major HS chapters, 2010-13

HS Section	HS Chapter / heading	2010	2011	2012	2013
Total (US$ billion)		**8.9**	**8.4**	**7.6**	**7.0**
		(% of total)			
01 Live animals and products		0.1	0.2	0.2	0.3
02 Vegetable products		0.0	0.0	0.0	0.0
03 Fats and oils		0.1	0.1	0.3	0.4
04 Prepared food, beverages and tobacco		6.5	7.9	9.8	11.2
	24 Tobacco and manufactured tobacco substitutes	3.2	3.8	5.0	5.7
05 Mineral products		3.3	4.2	3.3	3.3
	27 Mineral fuels and oils	3.3	4.1	3.2	3.1
06 Chemicals and products thereof		6.9	8.1	9.3	9.6
	30 Pharmaceutical products	3.3	3.8	5.0	5.0
07 Plastics and rubber		12.6	12.6	12.1	12.5
	39 Plastics and articles thereof	12.5	12.5	12.0	12.4
08 Raw hides and skins; leather, furskins and articles thereof		0.1	0.3	0.4	0.6
09 Wood, cork, straw		0.0	0.0	0.0	0.0
10 Pulp of wood; paper and paperboard		5.7	6.5	6.3	6.0
11 Textiles and textile articles		7.3	6.4	5.7	5.2
12 Footwear, headgear, etc.		0.0	0.0	0.0	0.0
13 Articles of stone, plaster, cement		0.2	0.2	0.2	0.3
14 Precious stones and metals, pearls		13.1	18.1	19.5	18.2
	7113 Jewelleries of precious metals	10.3	12.7	14.5	15.0
15 Base metals and articles thereof		7.8	9.3	9.7	9.6
	72 Iron and steel	3.2	4.5	4.6	4.5
16 Machinery, electrical equipment		31.8	21.8	18.0	15.6
	84 Machinery and mechanical appliances	3.5	10.5	10.7	9.2
	85 Electrical machinery	28.3	11.3	7.3	6.5
17 Transport equipment		0.0	0.0	0.0	0.0
18 Precision instruments		2.2	1.9	2.5	4.6
	90 Optical, measuring, and other precision instruments	1.7	1.5	2.0	3.2
19 Arms and ammunition		0.0	0.0	0.0	0.0
20 Miscellaneous manufactured articles		1.2	1.2	1.2	1.4
21 Works of art, collectors' pieces and antiques		0.0	0.1	0.1	0.3
Not classified		1.0	0.9	1.2	1.0

Source: WTO calculations, based on data provided by the HKC authorities.

Table A1. 3 Merchandise imports by HS sections and major HS chapters, 2010-13

HS Section	HS Chapter	2010	2011	2012	2013
Total (US$ billion)		**433.1**	**483.6**	**504.4**	**523.6**
		(% of total)			
01 Live animals and products		2.1	2.1	2.0	2.2
02 Vegetable products		0.9	0.9	1.0	1.0
03 Fats and oils		0.1	0.1	0.1	0.1
04 Prepared food, beverages and tobacco		1.3	1.4	1.4	1.5
05 Mineral products		3.6	3.9	3.7	3.5
	27 Mineral fuels and oils, products thereof	3.5	3.9	3.6	3.4
06 Chemicals and products thereof		2.5	2.6	2.4	2.2
07 Plastics and rubber		3.7	3.3	3.0	2.9
	39 Plastics and articles thereof	3.5	3.1	2.8	2.7
08 Raw hides and skins; leather, furskins and articles thereof		2.4	2.5	2.4	2.5
09 Wood, cork, straw		0.1	0.1	0.1	0.1
10 Pulp of wood; paper and paperboard		0.8	0.8	0.7	0.7
11 Textiles and textile articles		6.3	5.6	5.1	5.0
	61 Clothing, knitted or crocheted	2.0	1.8	1.6	1.6
12 Footwear, headgear, etc.		1.3	1.2	1.1	1.0
13 Articles of stone, plaster, cement		0.5	0.5	0.6	0.6
14 Precious stones and metals, pearls		5.8	7.3	7.2	7.4
15 Base metals and articles thereof		2.6	2.4	2.1	1.9
16 Machinery, electrical equipment		57.0	55.7	57.5	58.4
	84 Machinery and mechanical appliances	13.3	13.2	13.9	13.2
	85 Electrical machinery	43.7	42.5	43.6	45.2
17 Transport equipment		1.1	1.4	1.4	1.4
18 Precision instruments		4.9	5.2	5.5	5.4
	90 Optical, measuring, and other precision instruments	3.2	3.2	3.4	3.4
	91 Clocks, watches and parts thereof	1.7	2.0	2.1	2.0
19 Arms and ammunition		0.0	0.0	0.0	0.0
20 Miscellaneous manufactured articles		2.8	2.6	2.5	2.1
	95 Toys, games and sports requisites	2.3	2.0	1.9	1.6
21 Works of art, collectors' pieces and antiques		0.2	0.3	0.2	0.3
Not classified		0.0	0.0	0.0	0.0

Source: WTO calculations, based on data provided by the HKC authorities.

Table A1. 4 Merchandise re-exports by destination, 2010-13

	2010	2011	2012	2013
Total re-exports (US$ billion)	**381.2**	**420.3**	**435.2**	**451.9**
	(% of total)			
America	13.3	12.4	12.2	11.8
United States	10.9	9.9	9.8	9.3
Other America	2.3	2.5	2.4	2.5
Canada	0.8	0.7	0.7	0.6
Mexico	0.5	0.5	0.5	0.6
Europe	12.1	11.8	10.7	10.5
EU (28)	11.2	10.8	9.8	9.5
Germany	2.7	2.7	2.3	2.1
United Kingdom	2.0	1.7	1.6	1.5
Netherlands	1.4	1.3	1.2	1.2
France	1.2	1.2	1.1	1.2
Italy	0.9	0.9	0.7	0.7
Belgium	0.5	0.7	0.7	0.6
EFTA	0.7	0.8	0.8	0.8
Switzerland	0.6	0.7	0.7	0.7
Other Europe	0.2	0.2	0.2	0.2
Commonwealth of Independent States (CIS)	0.5	0.5	0.6	0.7
Africa	0.6	0.6	0.6	0.7
Middle East	1.3	1.5	1.7	1.9
United Arab Emirates	0.7	0.8	1.0	1.1
Asia	72.3	73.1	74.1	74.6
China	52.9	52.5	54.3	54.9
Japan	4.2	4.1	4.2	3.8
Six East Asian Traders	7.6	8.1	7.6	7.5
Chinese Taipei	2.2	2.5	2.3	2.1
Korea, Rep. of	1.8	1.8	1.7	1.8
Singapore	1.6	1.6	1.6	1.6
Thailand	1.1	1.3	1.2	1.2
Malaysia	0.8	0.8	0.8	0.7
Other Asia	7.5	8.5	8.0	8.4
India	2.5	2.8	2.3	2.4
Viet Nam	1.1	1.4	1.5	1.6
Macao, China	0.7	0.9	1.0	1.3
Australia	1.2	1.2	1.1	1.0
Philippines	0.5	0.6	0.6	0.6

Source: WTO calculations, based on data provided by the HKC authorities.

Table A1. 5 Merchandise domestic exports by destination, 2010-13

	2010	2011	2012	2013
Total domestic exports (US$ billion)	**8.9**	**8.4**	**7.6**	**7.0**
	(% of total)			
America	14.4	13.2	13.4	11.6
United States	12.0	10.9	11.5	9.9
Other America	2.4	2.2	1.8	1.6
Canada	1.1	0.7	0.6	0.6
Europe	12.2	11.5	10.4	8.3
EU (28)	9.5	7.0	5.0	5.4
United Kingdom	2.2	2.3	2.0	1.9
France	0.7	0.9	0.7	1.1
Italy	0.6	0.6	0.5	0.7
Germany	1.2	0.9	0.6	0.5
EFTA	2.5	4.4	5.2	2.8
Switzerland	2.4	4.3	5.2	2.7
Other Europe	0.2	0.2	0.2	0.2
Commonwealth of Independent States (CIS)	0.1	0.1	0.1	0.1
Africa	0.7	0.7	0.7	0.7
Middle East	1.2	1.6	1.8	2.3
United Arab Emirates	0.8	1.1	1.4	1.6
Asia	70.7	72.3	72.6	76.3
China	44.9	46.8	44.2	45.6
Japan	2.9	2.3	2.0	2.3
Six East Asian Traders	14.1	14.5	15.4	15.3
Singapore	4.1	4.0	4.6	4.7
Chinese Taipei	4.0	4.6	4.6	4.5
Malaysia	1.9	1.9	2.2	2.1
Thailand	1.9	1.8	1.8	2.1
Korea, Rep. of	2.2	2.2	2.2	1.9
Other Asia	8.8	8.7	10.9	13.1
Macao, China	1.7	2.2	2.8	3.4
Viet Nam	1.4	1.7	2.4	3.3
Australia	1.7	1.2	1.4	2.4
Philippines	1.1	1.0	1.1	1.2
Indonesia	0.4	0.5	0.6	0.8
India	1.4	0.9	1.5	0.6
Bangladesh	0.4	0.4	0.4	0.5
Other	0.7	0.6	0.9	0.7

Source: WTO calculations, based on data provided by the HKC authorities.

Table A1. 6 Merchandise imports by supplier, 2010-13

	2010	2011	2012	2013
Total imports (US$ billion)	**433.1**	**483.6**	**504.4**	**523.6**
	(% of total)			
America	6.8	7.1	6.7	7.0
United States	5.3	5.6	5.2	5.4
Other America	1.4	1.5	1.5	1.6
Brazil	0.4	0.4	0.4	0.5
Europe	9.0	10.3	9.9	9.8
EU (28)	7.3	8.1	7.8	7.8
Germany	1.7	1.7	1.5	1.4
United Kingdom	1.2	1.3	1.4	1.3
Italy	1.0	1.2	1.2	1.2
France	0.9	1.1	1.2	1.2
Belgium	0.7	0.7	0.7	0.7
Netherlands	0.5	0.6	0.6	0.7
EFTA	1.6	2.1	2.1	1.9
Switzerland	1.6	2.1	2.0	1.9
Other Europe	0.1	0.1	0.1	0.1
Commonwealth of Independent States (CIS)	0.2	0.2	0.2	0.2
Africa	0.3	0.3	0.4	0.3
Middle East	1.2	1.6	1.7	1.7
United Arab Emirates	0.5	0.7	0.9	0.8
Israel	0.5	0.6	0.5	0.6
Asia	82.4	80.6	81.1	81.0
China	45.5	45.1	47.1	47.8
Japan	9.2	8.5	8.0	7.1
Six East Asian Traders	22.5	21.5	20.5	20.5
Chinese Taipei	6.7	6.4	6.3	6.4
Singapore	7.1	6.8	6.3	6.1
Korea, Rep. of	4.0	4.0	3.9	3.9
Malaysia	2.5	2.4	2.1	2.2
Thailand	2.3	2.0	1.9	1.9
Other Asia	5.3	5.5	5.6	5.6
India	2.1	2.3	2.1	2.2
Philippines	1.2	1.1	1.0	1.0
Viet Nam	0.5	0.5	0.9	1.0
Indonesia	0.6	0.6	0.5	0.5
Australia	0.5	0.5	0.5	0.4

Source: WTO calculations, based on data provided by the HKC authorities.

Table A1. 7 Stock of foreign direct investment by country/territory, 2009-13

	2009	2010	2011	2012	2013
Inward stock (HK$ billion)	**7,013.3**	**8,299.4**	**8,377.0**	**9,646.6**	**..**
% of GDP	422.7	467.2	433.0	473.6	..
	(% of total)				
Mainland China	37.1	37.7	36.3	37.0	..
British Virgin Islands	32.6	32.3	31.1	32.7	..
Netherlands	6.9	7.1	7.0	7.0	..
Bermuda	6.0	6.5	7.1	6.4	..
United States	4.3	3.6	4.3	3.1	..
Singapore	1.5	1.4	2.2	2.1	..
Japan	2.4	2.2	2.3	1.8	..
Cayman Islands	1.9	1.5	1.3	1.4	..
United Kingdom	1.7	1.4	1.3	1.3	..
Cook Islands	1.0	0.8	0.9	1.2	..
Other countries/territories	4.6	5.5	6.2	6.0	..
Outward stock (HK$ billion)	**6,508.6**	**7,338.6**	**7,946.4**	**9,010.2**	**..**
% of GDP	392.3	413.1	410.8	442.3	..
	(% of total)				
Mainland China	41.2	41.1	42.1	40.7	..
British Virgin Islands	42.4	41.7	41.8	43.4	..
Bermuda	3.0	3.4	2.8	2.9	..
United Kingdom	2.7	2.6	2.7	2.4	..
Cayman Islands	0.9	0.7	1.4	2.0	..
Australia	1.3	1.3	1.2	1.2	..
Luxembourg	0.0	1.1	1.1	0.9	..
Canada	1.2	1.0	1.0	0.8	..
United States	1.4	1.3	0.9	0.7	..
Singapore	0.6	0.7	0.7	0.7	..
Other countries/territories	5.2	5.1	4.5	4.2	..

.. Not available.

Source: Government of Hong Kong, China, Census and Statistics Department online information. Viewed at: http://www.censtatd.gov.hk/hkstat/sub/sp260.jsp (Tables 48 and 50) [14 March 2014].

Table A1. 8 Stock of foreign direct investment by economic activity, 2009-13

	2009	2010	2011	2012	2013
Inward stock (HK$ billion)	**7,013.3**	**8,299.4**	**8,377.0**	**9,646.6**	**..**
% of GDP	422.7	467.2	433.0	473.6	..
	(% of total)				
Investment and holding, real estate, professional and business services	67.4	67.6	66.9	68.7	..
Banking	11.3	12.3	11.3	11.6	..
Import/export, wholesale and retail trades	8.8	8.4	9.5	9.2	..
Financing (except banking, investment and holding companies)	3.1	3.1	3.5	3.0	..
Transport, storage, postal and courier services	2.9	2.2	2.0	2.0	..
Construction	1.3	1.3	1.3	1.7	..
Insurance	2.4	2.4	2.5	1.3	..
Manufacturing	1.0	1.0	1.0	0.8	..
Information and communications	0.6	0.6	0.6	0.6	..
Accommodation and food services	0.4	0.3	0.3	0.4	..
Other activities	0.8	0.9	1.0	0.7	..
Outward stock (HK$ billion)	**6,508.6**	**7,338.6**	**7,946.4**	**9,010.2**	**..**
% of GDP	392.3	413.1	410.8	442.3	..
	(% of total)				
Investment and holding, real estate, professional and business services	75.9	75.6	76.3	78.0	..
Import/export, wholesale and retail trades	6.6	7.2	6.8	6.0	..
Banking	4.1	4.1	3.7	3.8	
Manufacturing	2.6	2.6	2.5	2.4	
Insurance	1.8	2.0	2.0	2.2	
Transport, storage, postal and courier services	2.5	2.1	2.4	2.0	..
Information and communications	0.7	0.6	0.6	0.9	..
Accommodation and food services	0.9	0.8	0.8	0.7	..
Financing (except banking, investment and holding companies)	0.9	0.6	0.7	0.7	
Construction	0.5	0.6	0.7	0.7	
Other activities	3.3	3.8	3.5	2.6	..

.. Not available.

Source: Government of Hong Kong, China, Census and Statistics Department online information. Viewed at: http://www.censtatd.gov.hk/hkstat/sub/sp260.jsp (Tables 49 and 51) [14 March 2014].

Table A2. 1 Selected notifications from Hong Kong, China

Agreement	Requirement/contents	Document reference of most recent notification
Agriculture Articles 10 and 18.2	Export subsidies (outlays and quantities)	G/AG/N/HKG/35, 15 January 2014
Article 18.2	Domestic support	G/AG/N/HKG/36, 28 April 2014
Application of Sanitary and Phytosanitary Measures Article 7, Annex B and Annex B, 6	Changes in sanitary and phytosanitary measures and information on measures applied, including emergency measures	G/SPS/N/HKG/39, 16 April 2014
Government Procurement Article XIX:5	Government procurement statistics	GPA/119/Add.2, 26 November 2013
Annex 3	Threshold values in national currencies	GPA/W/325, 9 December 2013
Implementation of GATT Article VI of the GATT 1994 (Anti-Dumping) Article 16.4	Anti-dumping actions taken and competent authorities	G/ADP/N/193/HKG, 14 July 2010
Import Licencing Procedures Article 7.3	Questionnaire; rules and information concerning import licensing procedures	G/LIC/N/3/HKG/17, 30 September 2013
Articles 1.4(a) and 8.2(b)	Changes to laws and regulations and related information on procedures	G/LIC/N/1/HKG/5, 7 January 2003
Market Access	Quantitative restrictions	G/MA/QR/N/HKG/1, 3 October 2012; G/MA/QR/N/HKG/1/Add.1, 14 May 2013
Rules of Origin Article 5.2 (1)	Preferential and non-preferential rules of origin	G/RO/N/86, 1 October 2012
State Trading GATT 1994 Art. XVII: 4(a) and Par. 1 of the Understanding on the Interpretation of Art. XVII.	Activities of state-trading enterprises.	G/STR/N/15/HKG, 24 March 2014
Subsidies and Countervailing Measures Article 25.1-GATT 1994 Article XVI:1	Subsidies programmes	G/SCM/N/253/HKG, 16 July 2013
Articles 25.11and 25.12	Countervailing actions taken and competent authorities	G/SCM/N/202/HKG, 14 July 2010
Safeguards Article 12.6	Safeguard legislation	G/SG/N/1/HKG/1, 20 March 1995
Technical Barriers to Trade Article 10.6	Technical regulations, standards, and conformity assessment procedures	G/TBT/N/HKG/45, 21 May 2014
Article 15.2	Administrative arrangements; laws/regulation	G/TBT/2/Add.1, 29 January 1996
Trade in Services Article III:3, paragraph 3	Changes in laws, regulations and administrative guidelines	S/C/N/645, 9 July 2012
TRIPS Article 63.2	Laws and regulations	IP/N/1/HKG/23, 30 April 2014
Article 69		IP/N/3/HKG/1, 20 December 2012
Free trade area GATT 1994 Article XXIV: 7(a)	Regional trade agreement	WT/REG/322/N/1, 1 October 2012
Trade Facilitation		WT/PCTF/N/HKG/1, 13 May 2014

Source: WTO Secretariat.

Table A3. 1 Excise duties, 2010-13

Commodity	2010	2013
	(%)	
Liquor[a]		
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	0	0
Wine	0	0
	(HK$)	
Tobacco[b]		
Cigarettes (per 1,000 cigarettes)	1,206	1,706
Cigars (per kilogram)	1,553	2,197
Chinese prepared tobacco (per kilogram)	296	419
All other manufactured tobacco except tobacco intended for the manufacture of cigarettes (per kilogram)	1,461	2,067
Hydrocarbon oil (per litre)		
Aircraft spirit	6.51	6.51
Light diesel oil	2.89	2.89
Motor spirit (unleaded petrol)	6.06	6.06
Motor spirit (leaded petrol)	6.82	6.82
Ultra low sulphur diesel	2.89	2.89

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 authorized officer) may assess the duty payable at a rate of HK$160 per litre. For the purpose of assessing and calculating duty, the transaction value of the goods will be used as the primary basis for determining value.

b The excise duties on tobacco increased by 41.5% on 23 February 2011.

Source: The Customs and Excise Department online information. Viewed at: http://www.customs.gov.hk/en/trade_facilitation/dutiable/types/index.html.

Table A3. 2 First registration tax for automobiles, 2010 and 2013

(%)

	2010	2013
1. Private cars		
- on the first HK$150,000	35	40
- on the next HK$150,000	65	75
- on the next HK$200,000	85	100
- on the remainder	100	115
2. Taxis	3.7	3.7
3. Public and private light buses	3.7	3.7
4. Public buses, except buses which are to be used solely in connection with operating a public bus service under the Public Bus Services Ordinance (Chapter 230) or under the Kowloon-Canton Railway Corporation Ordinance (Chapter 372) within the North-West Transit Service Area as defined in the Ordinance	3.7	3.7
5. Private buses, except buses which are to be used solely in connection with the training of drivers for the purposes of operating a public bus service under the Public Bus Service Ordinance (Chapter 230) or within the North-West Transit Service Area under the Kowloon-Canton Railway Corporation Ordinance (Chapter 372)	3.7	3.7
6. Motor cycles	35	35
7. Motor tricycles	35	35
8. a. Goods vehicles, other than van-type light goods vehicles	15	15
b. Van-type light goods vehicle not exceeding 1.9 tonnes permitted gross vehicle weight		
- on the first HK$150,000	35	35
- on the next HK$150,000	65	65
- on the remainder	85	85
c. Van-type light goods vehicle exceeding 1.9 tonnes permitted gross vehicle weight	17	17
9. Special purpose vehicles	3.7	3.7

Source: Information provided by the HKC authorities.

Table A3. 3 Regime of standards and technical requirements, 2013

Ordinance/Regulation	Summary of the legislation	Changes since 1 January 2010
Environmental protection		
Air Pollution Control Ordinance (Cap 311)	To provide for the control of air pollution from stationary sources and motor vehicles. Import into Hong Kong, China of any quantity of asbestos known as amosite or crocidolite or any substance or item made with or containing amosite or crocidolite is prohibited, except if the substances form an integral part of the structure of fittings of a ship brought into Hong Kong, China for repair or breaking up.	Amendments were made in 2014 to set out the new Air Quality Objectives (AQOs) of HKC and stipulate a periodic review of AQOs at least once in every five years. Extended the ban on import and sale of amosite and crocidolite asbestos to banning the import, transhipment, supply and use of all forms of asbestos (including white asbestos - chrysotile) in a bid to better protect public health, with exceptions and exemption to be granted under special circumstances on application.
Air Pollution Control (Fuel Restriction) Regulations (Cap 311I)	To prohibit the use of high sulphur content solid and liquid fuel (sulphur content shall not exceed 1% by weight for conventional solid fuels and 0.005% by weight for liquid fuels) for commercial and industrial appliances and require the use of gaseous fuel in certain areas of the territory.	Nil
Air Pollution Control (Vehicle Design Standards) (Emissions)_Regulations (Cap 311J)	To set out the emission standards for vehicles. Newly registered vehicles shall comply with the latest EU or the equivalent U.S. and Japanese emission standards.	Nil
Air Pollution Control (Motor Vehicle Fuel) Regulation (Cap 311L)	To set out the specifications of motor vehicle fuel to be used in motor vehicles and prohibit the sale of leaded petrol. The specifications are determined in accordance with relevant ISO/EN/ASTM standards or Institute of Petroleum.	A new regulatory control on motor vehicle biodiesel (Part V of the Regulation) and new specifications of pure motor vehicle biodiesel (Schedule 3 of the Regulation) were added, which takes effect starting from 1 July 2010.
Air Pollution Control (Emission Reduction Devices for Vehicles) Regulation (Cap 311U)	To require scheduled vehicles to be installed with approved emission reduction devices Under the Regulation, the Director of Environmental Protection shall maintain a register of all emission reduction devices approved. The Director of Environmental Protection may include in the register an emission reduction device only if he is satisfied that the device can reduce the emission of air pollutants from a motor vehicle in a manner and to an extent satisfactory to him and it is suitable for installation on a motor vehicle.	Nil
Air Pollution Control (Dry-Cleaning Machines) (Vapour Recovery) Regulation (Cap 311T)	To control the emission of perchloroethylene (PCE) from the dry-cleaning industry through the imposition of PCE emission standard on dry-cleaning machines in use Specifically, the concentration of PCE inside the drum of dry-cleaning machines should not exceed 300 ppmv at the end of drying cycle.	Nil
Air Pollution Control (Petrol Filling Stations) (Vapour Recovery) Regulation (Chapter 311S)	Petrol storage tanks and petrol dispensers of petrol filling stations and petrol delivery vehicles are required to be installed with vapour recovery systems.	Nil

Ordinance/Regulation	Summary of the legislation	Changes since 1 January 2010
Air Pollution Control (Volatile Organic Compounds) Regulation (Chapter 311W)	Import and local manufacture of regulated VOC-containing products for local sale and use is allowed only if their VOC contents meet the prescribed standards.	The types of regulated products were expanded from architectural paints, printing inks and consumer products to cover vehicle refinishing paints, vessel paints and pleasure craft paints, adhesives and sealants by phases.
Air Pollution Control (Air Pollutant Emission) (Controlled Vehicles) Regulation (Cap 311X)	To phase out pre-Euro IV diesel commercial vehicles including goods vehicles, light buses and non-franchised buses by 2020 and to limit the service life of diesel commercial vehicles first registered on or after 1 February 2014 at 15 years.	Nil
Air Pollution Control (Marine Light Diesel) Regulation (Cap 311Y)	To provide for the specifications for marine light diesel supplied in HKC. Specifically, the sulphur content shall not exceed 0.05% by weight.	Nil
Ozone Layer Protection Ordinance (Chapter 403)	To comply with the requirements of the Montreal Protocol on substances that deplete the ozone layer.	Nil
Ozone Layer Protection (Controlled Refrigerants) Regulation (Chapter 403B)	To prohibit any intended release of controlled refrigerants from motor vehicle air-conditioners or refrigeration equipment containing more than 50 kg of refrigerant to charge into the atmosphere, and to conserve the controlled refrigerants through the use of approved recycling and recovery equipment.	Nil
Ozone Layer Protection (Products Containing Scheduled Substances) (Import Banning) Regulation (Chapter 403C)	To prohibit the import of products containing ozone-depleting substances listed in the Schedule to the Ordinance from all countries.	Nil
Noise Control (Air Compressors) Regulations (Cap 400C)	To stipulate noise emission standards for certain portable air compressors.	Nil
Noise Control (Hand Held Percussive Breakers) Regulations (Cap 400D)	To stipulate prescribed noise emission standards for certain hand-held percussive breakers to comply with.	Nil
Noise Control (Motor Vehicles) Regulation (Cap 400I)	To stipulate noise emission standards, as prescribed in the Schedule, for motor vehicles including motorcycles to comply with in first registration.	Nil
Motor vehicles		
Road Traffic (Construction and Maintenance of Vehicles) Regulations (Cap 374-A)	To set out control of vehicle construction and maintenance.	Speed limiter required for public light buses; reversing video device required for new goods vehicles.
Road Traffic (Safety Equipment) Regulations (Cap 374F)	To permit or require the provision or use of specified safety equipment (including seat belts, anchorage point, seats with integral seat belt anchorage, and protection helmets in compliance with specified overseas standards/design rules) by persons driving, riding in or on, or using, any class of vehicle and controlling the sale, hire or possession of such equipment.	Nil

Ordinance/Regulation	Summary of the legislation	Changes since 1 January 2010
Construction		
Buildings Ordinance (Cap 123) and its subsidiary legislation	To provide for the planning, design, and construction of buildings and associated works; to make provision for rendering safe of dangerous buildings and land; and to make provision for regular inspections of buildings and the associated repairs to prevent the buildings from becoming unsafe. The drafting of codes of practice and design manuals has made reference to available international requirements.	Nil
Product safety		
Toys and Children's Products Safety Ordinance (Cap 424)	To prescribe the requirement for toys and children's products to comply with the applicable safety standards, for toys: European Standards EN 71 as well as EN 62115, ASTM F963, and International Standard ISO 8124 as well as IEC 62115, as listed in Schedule 1 to the Ordinance; for children's products listed in Schedule 2 to the Ordinance, they must comply with the respective specifications listed in the Schedule, including ISO, EN, BS, ASTM, AS and NZS.	The Ordinance was amended in December 2013 to enable the new Toys and Children's Products Safety (Additional Safety Standards or Requirements) Regulations to be made thereunder to control the concentration of six types of phthalates in toys and children's products.
Toys and Children's Products Safety (Additional Safety Standards or Requirements) Regulations (Chapter 424C)	To stipulate the concentration limits of six types of phthalates in toys as well as children's products intended to facilitate the feeding, hygiene, relaxation, sleep, sucking or teething of a child under 4 years of age and containing any plasticized material. The six types of phthalates are BBP, DBP, DEHP, DIDP, DINP and DNOP.	The Regulation was made in February 2014 and came into effect in July 2014.
Consumer Goods Safety Ordinance (Cap 456)	To stipulate that consumer goods shall comply with the general safety requirement.	Nil
Fire Service (Installation & Equipment) Regulations (Cap 95B)	To regulate the local sale and supply of portable firefighting equipment e.g. fire extinguisher, fire blanket to ensure that the design and make of which conform with a set of recognized international or overseas standards by requiring testing and subsequent approval by the Fire Services Department before use in HKC.	Nil
Electricity Ordinance (Cap 406) and its subsidiary legislations	To prescribe safety requirements of all electrical products designed for household use and issue certificates of safety compliance. Under the Electrical Products (Safety) Regulation (Chapter 406G) enacted in May 1998 to replace a previous regulation, all electrical products designed for household use and supplied in Hong Kong, China shall comply with both essential and specific safety requirements and shall be issued with certificates of safety compliance. The safety requirements are based on the relevant international or overseas standards relevant for the purpose of the regulation. Concerning the safety standards, IEC standards as well as relevant international/national standards that comply with the prescribed safety requirements of the EPSR are acceptable.	Nil

Ordinance/Regulation	Summary of the legislation	Changes since 1 January 2010
Lifts and Escalators (Safety) Ordinance (Cap 618)	To ensure the safety of new brands/models of lift or escalator, written approval of the Director of Electrical and Mechanical Services is required before installation.	The Lifts and Escalators Ordinance (Chapter 618) came into operation on 17 December2012, repealing the Lifts and Escalators (Safety) Ordinance (Chapter 327).
Builders' Lifts and Tower Working Platforms (Safety) Ordinance (Chapter 470)	To ensure the safety of builders' lift or tower working platform, the authority is the Director of Electrical and Mechanical Services.	Nil
Gas Safety Ordinance (Chapter 51)	To control, in the interests of safety, the importation, manufacture, storage, transport, supply and use of gas, in accordance with the directive of the Gas Authority (Director of Electrical and Mechanical Services) for the purposes of the ordinance.	Nil
Telecommunications		
Telecommunications Ordinance (Chapter 106) and its subsidiary regulations	To make better provision for the licensing and control of telecommunications, telecommunications services, and telecommunications apparatus and equipment. Technical telecommunications regulations in the form of Hong Kong Communications Authority (HKCA) specifications and regulations/exemption orders have been stipulated for the purpose of licensing and control of telecommunications, telecommunication services, and telecommunication apparatus and equipment. The specifications adopted are identical to or essentially in line with international standards.	The Telecommunications (Control of Interference) Regulations (Chapter 106B) has been updated in order to align with widely recognized international standards.
Dangerous goods		
Dangerous Goods Ordinance (Chapter 295) and its subsidiary legislation	To prescribe rules on classification, labelling, packing, and storage of dangerous goods.	Nil
Air transport		
Air Transport (Licensing of Air Services) Regulations (Chapter 448 sub. leg. A)	To provide for the general policy on application, approval, issue, revocation and suspension of: (i) licences and operating permits for scheduled journeys; and (ii) permits for journeys other than scheduled journeys, and related general provisions.	Introduced measures in 2013 to improve the regulatory regime to align with the developments in the global liberalization of air services in recent years.

Source: Information provided by the HKC authorities.

Table A3. 4 Insured business by major markets and major products, 2012-13

(HK$ million)

	Insured business in 2012-2013	% of total value in 2012-2013	% increase in insured business from 2011-2012
Markets			
United States	40,486	42.0	20.5
United Kingdom	9,744	10.1	-2.8
Mainland China	8,524	8.8	23.4
Germany	4,074	4.2	-6.9
Switzerland	2,751	2.9	6.0
Top five markets	65,579	68.0	14.1
Other markets	30,917	32.0	2.3
Total	**96,496**	**100.0**	10.0
Products			
Clothing	16,032	16.6	2.3
Electrical appliances	10,711	11.1	60.2
Toys	9,793	10.2	10.2
Electronics	8,130	8.4	-0.7
Metallic products	3,171	3.3	-6.7
Top five products	47,837	49.6	11.7
Other products	48,659	50.4	8.4
Total	**96,496**	**100.0**	**10.0**

Source: The Hong Kong Export Credit Insurance Corporation online information, "Annual Reports", viewed at: http://www.hkecic.com/en/information_annual_reports.aspx; and information provided by the HKC authorities.

Table A3. 5 Selected incentives and assistances measures, Hong Kong, China, 2011-13

Sector	Objective	Agency in charge	Form of support	Total amount 2011-13 (US$ million)
SMEs				
SME Loan Guarantee Scheme (SGS)	To help SMEs secure loans from participating lending institutions (PLIs) for acquiring business installations and equipment and for general business use in meeting working capital needs	Trade and Industry Department (TID)	• Government provides up to 50% guarantee to loans granted by PLIs to SMEs, subject to a maximum guarantee amount of HK$6 million (~US$770,000) per SME • Each SME is also allowed to recycle the guarantee once after it has fully paid up the loan backed up by the guarantee, subject to a maximum guarantee amount of another HK$ 6 million (~US$770,000)	At end 2011: US$2,215 At end 2012: US$2,455 At end 2013: US$2,629
Special Loan Guarantee Scheme (SpGS) (Application period closed)	To help Hong Kong enterprises secure loans from PLIs to tackle the liquidity problem arising from the global financial crisis	TID	• Government provides up to 80% (up to 70% before 15 June 2009) guarantee for loans granted by PLIs to HKC enterprises, subject to a maximum loan amount of HK$12 million (~US$1.54 million) for each enterprise, out of which up to HK$6 million (~US$770,000) could be used as a revolving credit line	At end 2011: US$9,550 At end 2012: US$9,495 At end 2013: US$9,492
SME Export Marketing Fund (EMF)	To help SMEs expand their businesses through participation in export promotion activities such as exhibitions, trade missions, and placing advertisements on printed trade publications and eligible trade websites targeting export markets	TID	• Government provides a maximum of 50% of the approved expenses, subject to a ceiling of HK$50,000 (~US$6,410) per application. • Since 10 June 2013, the cumulative grant ceiling for each SME under the EMF has also been raised from HK$150,000 (~US$19,230) to HK$200,000 (~US$25,641), subject to the meeting of relevant additional conditions	At end 2011: US$261.62 At end 2012: US$294.89 At end 2013: US$327.06
SME Development Fund (SDF)	To provide financial support to non-profit-distributing support organizations such as trade and industrial organizations, professional bodies, etc. to carry out projects that can enhance SMEs' competitiveness	TID	• Government provides funding support of up to HK$2 million (~US$256,000), or 90% of the total project expenditure, whichever is the less, for each approved project	At end 2011: US$26.00 At end 2012: US$29.61 At end 2013: US$32.90

Sector	Objective	Agency in charge	Form of support	Total amount 2011-13 (US$ million)
Dedicated Fund on Branding, Upgrading and Domestic Sales (the BUD Fund)	To support HKC enterprises to enhance their competitiveness and further their business development in the Mainland market through developing brands, upgrading and restructuring their operations and promoting domestic sales in Mainland China's market, so as to capitalize on the opportunities arising from the Mainland China's National 12th Five-Year Plan.	*Enterprise Support Programme:* Hong Kong Productivity Council *Organization Support Programme:* TID	*Enterprise Support Programme:* • Government provides a maximum of 50% of the total approved project cost, subject to cash contribution by the applicant enterprise amounting to no less than 50% of the total approved project cost as well as a ceiling of three approved projects and cumulative funding amount of HK$500,000 (~US$64,100) per enterprise *Organization Support Programme:* • Government provides funding support of up to HK$5 million (~US$641,000), or 90% of the total project expenditure, whichever is the less, for each approved project	At end March 2014 (since June 2012): US$27.3
R&D				
Small Entrepreneur Research Assistance Programme (SERAP)	To provide funding support to technology entrepreneurs and SMEs to carry out R&D for starting new businesses and conducting market validation. In general, locally incorporated companies with less than 100 employees are eligible to apply	Innovation and Technology Commission (ITC)	• For projects approved for funding, a loan of up to HK$6 million will be provided on a dollar-for-dollar matching basis	In 2011: US$3.21 In 2012: US$1.20 In 2013: US$6.51
Innovation and Technology Support Programme (ITSP)	To support midstream/ downstream research and development (R&D) projects undertaken mainly by universities, R&D centres, industry support organizations, professional bodies, and trade and industry associations	ITC	• Funding support is normally given as a grant, which may be used for meeting the manpower costs, the costs for the procurement of equipment, and other direct costs specifically required for the conduct of the project	In 2011: US$51.59 In 2012: US$64.92 In 2013: US$66.09
University-Industry Collaboration Programme	To stimulate private-sector interest in R&D through leveraging the knowledge and resources of universities	ITC	• The support is given as a grant, subject to cash contribution by the company amounting to no less than 50% of the project cost	In 2011: US$1.81 In 2012: US$3.42 In 2013: US$3.08
General Support Programme	To support projects that contribute to fostering an innovation and technology culture in HKC, and those that will be beneficial to the upgrading and future development of its industries	ITC	• Support is given as a grant, with contribution by companies amounting to no less than 10% of the project cost	In 2011: US$2.08 In 2012: US$3.42 In 2013: US$3.13

Sector	Objective	Agency in charge	Form of support	Total amount 2011-13 (US$ million)
Patent Application Grant	To assist local companies and individuals to apply for patents of their own inventions	Hong Kong Productivity Council (HKPC)	• A grant of up to HK$150,000 or 90% of the total direct cost of the patent application, whichever is the lower	In 2011: US$2.60 In 2012: US$2.50 In 2013: US$1.80
New Technology Training Scheme	To assist companies wishing to have their staff trained in a new technology that would be useful to their business	Vocational Training Council (VTC)	• Funding support up to 50% of training cost to employers	In 2011/12: US$0.25 In 2012/13: US$0.24
Research and Development (R&D) Cash Rebate Scheme	To reinforce the research culture among business enterprises and encourage them to establish stronger partnerships with designated local public research institutions	ITC	• Cash rebate equivalent to 30% of the expenditure in: projects under the ITF, and projects funded entirely by the companies and conducted by the designated local research institutions	In 2011: US$0.80 In 2012: US$3.40 In 2013: US$3.60
Services				
Professional Services Development Assistance Scheme	To provide financial support to non-profit-distributing support organizations such as professional, trade and industrial organizations, etc. to carry out projects to enhance the standard and external competitiveness of HKC's professional services	Commerce and Economic Development Bureau	• For each approved project, Government provides a grant to cover (maximum) 50% of total project expenditure, subject to a maximum of HK$2 million (~US$0.26 million)	At end 2011: US$12.49 At end 2012: US$13.08 At end-September 2013: US$14.18
Film Development Fund (FDF)	To help the development of the film industry	Create Hong Kong (CreateHK)	• The FDF finances: (a) film-related projects conducive to the long-term development of the film industry in Hong Kong, China, and (b) small-to-medium budget film productions up to 40% of the production budget	In 2011: US$4.36 In 2012: US$7.28 In 2013: US$9.11
Film Guarantee Fund Scheme (FGF)	To assist local film production companies to obtain loans from participating lending institutions (PLIs) to produce films	CreateHK	• The FGF provides up to 50% guarantee to PLIs that offer loan facilities to film production companies in Hong Kong, China for film productions	In 2011: US$0 (no loan guarantee was issued) In 2012: US$0 (no loan guarantee was issued) In 2013: US$0 (no loan guarantee was issued)

Sector	Objective	Agency in charge	Form of support	Total amount 2011-13 (US$ million)
Create Smart Initiative (CSI)	To fund initiatives which are conducive to the development of creative industries in HKC, with the exception of those which are separately funded by other government sources	CreateHK	• The CSI provides funding support by way of a grant, which may be used for meeting the manpower costs, the costs for the procurement of equipment, and other direct costs specifically required for the conduct of the project; or by way of a matching grant for the cost of design project collaborated between design company and small and medium-size enterprise	In 2011: US$9.23 In 2012: US$11.79 In 2013: US$12.26
Design Smart Initiative (DSI)	To promote integration of design into mainstream business and industrial processes as a value-adding activity	CreateHK	• The DSI consisted of a Design Incubation Programme (DIP) and a Design Support Programme (DSP), which covered four funding schemes. Three of the four schemes under the DSP, namely the General Support Scheme (GSS), the Professional Continuing Education Scheme (PCES) and the Design Research Scheme (DRS), migrated to the CSI on 1 June 2011. The last scheme, Design-Business Collaboration Scheme (DBCS), has also been placed under the CSI as from 24 May 2013	DSP (amount of funding approved) In 2011: US$3.10 In 2012: US$0.13 In 2013: US$0.09 DIP (number of incubates admitted) In 2011: 21 In 2012: 22 In 2013: 19

Source: Information provided by the HKC authorities.

Table A3. 6 Intellectual property laws and regulations, 2014

Title	Brief description
Patents Ordinance (Chapter 514)	Makes provisions for patents and related matters. Amended in 2008: to implement the compulsory licensing scheme under Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health and the Protocol amending the WTO TRIPS Agreement (WTO document IP/N/1/HKG/17, 7 April 2008). Amended in 2009 to extend its application to the 3 offices set up by the Central People's Government in Hong Kong, China (WTO document IP/N/1/HKG/20, 17 March 2010). Amended in 2006, 2010 and 2013, to reflect the latest membership position of the Paris Convention for the Protection of Industrial Property (Paris Convention), and the WTO (WTO document IP/N/1/HKG/23, 30 April 2014, and information from the authorities).
Patents (Transitional Arrangements) Rules	Provides transitional arrangements for the registration of patents in the Register of HKC for patents registered under the old Registration of Patents Ordinance, which was repealed in 1997, and certain patents registered under the United Kingdom Patents Acts 1949 and 1977.
Patents (General) Rules	Prescribes provisions and procedures under the Patents Ordinance (Chapter 514).
Patents (Designation of Patent Offices) Notice	Makes designations under Section 8 of the Patents Ordinance (Chapter 514).
Plant varieties	
Plant Varieties Protection Ordinance (Chapter 490)	Provides, *inter alia*, a *sui generis* regime for the granting and protection of proprietary rights to persons who breed or discover and develop plant varieties Amended in 2009 to extend its application to the 3 offices set up by the Central People's Government in Hong Kong, China (WTO document IP/N/1/HKG/20, 17 March 2010).
Plant Varieties Protection Regulation (Chapter 490A)	Prescribes provisions and procedures under the Plant Varieties Protection Ordinance (Chapter 490).
Trademarks (including trade descriptions)	
Trade Marks Ordinance (Chapter 559)	Makes provisions for the registration of trademarks (entry into force in 2003); with the effect of simplifying application and examination procedures, reducing substantially the fee for registration of a trademark; broadening the range of marks that can be registered, for example by allowing distinctive sound and smell marks to be registered; simplifying procedures for recording assignments and licences; and allowing multi-class applications. Amended in 2006, 2010 and 2013, to reflect the latest membership position of the Paris Convention, and the WTO (WTO document IP/N/1/HKG/23, 30 April 2014, and information from the authorities).
Trade Marks Rules	Prescribes provisions and procedures under the Trade Marks Ordinance (Chapter 559). Amended in 2006 to facilitate enhanced electronic services (WTO document IP/N/1/HKG/13, 22 May 2006, and information from the authorities).
Trade Descriptions Ordinance (Chapter 362) (as amended by Intellectual Property (World Trade Organization Amendments) Ordinance)	Contains provisions prohibiting the use of false trade descriptions and the forgery of trademarks in relation to goods.
Geographical indications	
Trade Marks Ordinance (Chapter 559) Trade Descriptions Ordinance (Chapter 362)	Enables geographical indications to be registered as certification or collective trademarks. In addition, the use of a false geographical indication applied to goods in a fashion calculated to mislead consumers may be a criminal offence under the Trade Descriptions Ordinance.

Title	Brief description
Copyright and related rights	
Copyright Ordinance (Chapter 528)	Makes provisions in respect of copyright and related rights and for connected purposes. Amended in 2007 to (i) maintain the scope of existing business end-user criminal liability in relation to possession of infringing copies of four categories of works, i.e. software, movies, television dramas, and musical recordings (the possession offence); (ii) refine the copyright exemption regime (including the introduction of a fair dealing provision for instructional purposes); (iii) introduce new permitted acts (including exceptions for producing specially adapted copies of copyright works for persons with a print disability, and for efficient transaction of public business in urgent circumstances); (iv) relax the legal prohibitions against use of parallel imported copies of copyright works by business end-users and shorten the period during which dealing in parallel imports would cause criminal liability; (v) introduce measures to strengthen enforcement; (vi) introduce new rights and liabilities, i.e. rental rights for films and underlying works in sound recordings, moral and rental rights for performers, civil liabilities against persons who tamper with rights management information attached to copyright works, against persons who deal in circumvention tools or provide circumvention services, and against persons who circumvent a technological measure used for copyright protection; (vii) criminal liabilities against persons engaging in commercial dealing of circumvention tools or providing circumvention services on a commercial basis for the circumvention of technological measures, against persons who either make with a view to distributing or distribute infringing copies of newspapers, magazines, periodicals and books on a regular or frequent basis (the "copying and distribution offence" targeting business end-users); and against directors/partners/other persons responsible for the internal management of organizations that have committed the possession offence or the copying and distribution offence. Amended in 2009 to (i) prescribe the numeric limits within which the copying and distribution offence will not apply; and (ii) exclude Intranet distribution (except email and fax transmissions) from the scope of the offence in the interim, pending formulation of the numeric limit applicable to such type of distribution in consultation with the stakeholders.
Prevention of Copyright Piracy Ordinance (Chapter 544)	Makes provisions for the prevention of copyright piracy using the medium of optical discs (including stampers). Sets out a statutory licensing scheme for manufacturers of optical discs in Hong Kong, China and makes provisions for optical discs manufactured in Hong Kong, China to be marked with an assigned manufacturer identification code. Also combats bootlegging of copyright work by stipulating that the unauthorized possession of video recording equipment in certain places of public entertainment is an offence.
Industrial designs	
Registered Designs Ordinance (Chapter 522)	Establishes a system for the registration of new designs. Amended in 2009 to extend its application to the 3 offices set up by the Central People's Government in Hong Kong, China (WTO document IP/N/1/HKG/20, 17 March 2010). Amended in 2006, 2010 and 2013 to reflect the latest membership position of the Paris Convention, and the WTO (WTO document IP/N/1/HKG/23, 30 April 2014, and information from the authorities).

Title	Brief description
Registered Designs Rules	Prescribes provisions and procedures under the Registered Designs Ordinance (Chapter 522).
Copyright Ordinance (Chapter 528)	Provides protection for commercially exploited artistic works.
Layout-designs (topographies) of integrated circuits	
Layout-design (Topography) of Integrated Circuits Ordinance (Chapter 445)	Provides a *sui generis* intellectual property regime for the protection of layout-designs (topographies) of integrated circuits and for legal remedies against infringement. Amended in 2006, 2010 and 2013 to reflect the latest membership position of the Paris Convention, and the WTO (WTO document IP/N/1/HKG/23, 30 April 2014, and information from the authorities).
Layout-design (Topography) of Integrated Circuits (Designation of Qualifying Countries, Territories or Areas) Regulation	Designates countries, territories or areas as qualifying countries, territories or areas under Section 24 of the Layout-design (Topography) of Integrated Circuits Ordinance (Chapter 445).
Protection of undisclosed information	
Non-statutory protection of undisclosed information	Protection under the common law on confidentiality.
Personal Data (Privacy) Ordinance	Requires data users to use information only for the purposes for which it was collected, to inform people of the purposes for which data is collected and to protect such information against unauthorized or accidental disclosure.

Source: WTO notifications, and information provided by the HKC authorities.

Table A3. 7 Enforcement of intellectual property rights, 2010-13

	2010	2011	2012	2013
Prosecution and sentencing under the Copyright Ordinance and Prevention of Copyright Piracy Ordinance				
Persons given prison sentence	316	176	41	24
% of sentences of:				
<6 months	50.6	57.4	41.5	75
6-12 months	47.5	37.5	53.6	25
>12 months	1.9	5.1	4.9	0
Maximum sentence passed (months)	26	33	24	8
% of cases with fines of:				
<HK$50,000	98.4	96.4	100	97.7
HK$50,000-100,000	1.6	1.2	0	2.3
>HK$100,000	0	2.4	0	0
Maximum fine (HK$)	100,000	180,000	40,000	80,000
Total fines (HK$)	1,052,800	1,205,500	536,400	613,700
Prosecution and sentencing under the Trade Descriptions Ordinance				
Persons given prison sentence	91	93	44	28
% of sentences of:				
<6 months	82.4	82.8	90.9	96.4
6-12 months	17.6	16.1	9.1	3.6
>12 months	0	1.1	0	0
Maximum sentence passed (months)	10	18	10	6
% of cases with fines of:				
<HK$50,000	97.8	98	98	97.5
HK$50,000-100,000	2	2	1.2	1.8
>HK$100,000	0.3	0	0.8	0.7
Maximum fine (HK$)	120,000	82,000	150,000	112,000
Total fines (HK$)	4,116,970	2,169,200	2,967,500	3,616,400
Seizure of illegal merchandise goods				
Pirated optical discs				
Quantity ('000)	890	729	197	311
Value (HK$ million)	18.1	16.3	4.7	6.1
Counterfeit goods				
Quantity ('000)	1,521	2,392	3,038	1,920
Value (HK$ million)	120	147	136	136

Source: Data provided by the HKC authorities.

Table A4. 1 Entries of the ITIP services database for the telecommunication sector in Hong Kong, China, 2005 and 2011

Source	Description of the measure	Date of the measure
WTO, "Notification Pursuant to Article III: 3 of the General Agreement on Trade in Services", Council for Trade in Services	"Pursuant to the Order of the Chief Executive in Council made on 4 May 1999, the local FTNS[a] market has been progressively liberalized as follows: Provisioning of telecommunications services over the existing subscription television licensee's (i.e. Hong Kong Cable Television Limited) hybrid fibre coaxial network has been allowed since January 2000 onwards. Local wireless FTNS market has been liberalized with five local wireless FTNS licences granted in February 2000. FTNS market has been fully liberalized since 1 January 2003"	28/02/2005
APEC Services Trade Access Requirements (STAR) Database	"Hong Kong, China's telecommunications market has been liberalized and there are no foreign ownership restrictions. The regulatory regime is pro-competition and pro-consumer"	
APEC Services Trade Access Requirements (STAR) Database	"There are no restrictions on foreign ownership of fixed telecommunications services, generally no limitations on the number of licences issued, and no requirements regarding network rollout or investment"	
APEC Services Trade Access Requirements (STAR) Database	"A Hong Kong, China company vehicle is required in order to obtain some telecommunications licences. For example, value-added telecommunications services must be provided in the form of a company incorporated under the Hong Kong Companies Ordinance or a company incorporated outside Hong Kong, which establishes a place of business and is registered as such in Hong Kong under the Companies Ordinance"	
WTO "Trade Policy Review - Report by the Secretariat - Hong Kong, China" (p. 70, paras. 60, 64)	"Hong Kong, China's telecommunications market has been liberalized and there are no foreign ownership restrictions (...) There are no restrictions on foreign ownership of fixed telecommunications services, no limitations on the number of licences issued, and no requirements regarding network rollout or investment"	25/01/2011
APEC, "2010 Guide to Investment Regimes of APEC Member Economies, 2nd Revision, (Hong Kong, China)", Singapore, May 2011.	"HKC's telecommunications market is fully liberalized. There is no foreign ownership restriction on operating telecommunications services. A telecommunications service licence may be granted to or held by any company registered in HKC"	01/05/2011

a FTNS = Local Fixed Telecommunications Network Services.

Source: WTO ITIP-Services database.

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